11 July 2017

To: The Chair and Members of the Development Control and Regulation Committee

Agenda

DEVELOPMENT CONTROL AND REGULATION COMMITTEE

A meeting of the Development Control and Regulation Committee will be held as follows:

Date: Tuesday 18 July 2017
Time: 10.00 am
Place: Council Chamber - County Offices, Kendal, LA9 4RQ

Dawn Roberts
Corporate Director – Resources and Transformation

Enquiries and requests for supporting papers to: Nicola Harrison
Direct Line: 01228 226906
Email: nicola.harrison@cumbria.gov.uk

This agenda is available on request in alternative formats

Serving the People of Cumbria
MEMBERSHIP

Labour (6)                                    Conservative (8)                                    Liberal Democrat (3)
Mr F Cassidy                        Mr LN Fisher                                    Mr N Cotton
Mr KR Hamilton                      Mr RK Bingham                                   Mrs BC Gray
Mr W McEwan                         Mrs HF Carrick                                   Mr GD Cook (Chair)
Mr A McGuckin (Vice-Chair)          Mr A Bowness                                    Mr N Cotton
Mr FI Morgan                         Mr J Bland                                     Mrs BC Gray
Mr MH Worth                          Mr D Whipp                                     Mr GD Cook (Chair)

Independent (1)
Mr JS Holliday

ACCESS TO INFORMATION

Agenda and Reports
Copies of the agenda and Part I reports are available for members of the public to inspect prior to the meeting. Copies will also be available at the meeting.

The agenda and Part I reports are also available on the County Council’s website – http://councilportal.cumbria.gov.uk/ieListMeetings.aspx?CId=124&Year=0

Background Papers
Requests for the background papers to the Part I reports, excluding those papers that contain exempt information, can be made to the Legal and Democratic Services Unit at the address overleaf between the hours of 9.00 am and 4.30 pm, Monday to Friday.
AGENDA

PART 1: ITEMS LIKELY TO BE CONSIDERED IN THE PRESENCE OF THE PRESS AND PUBLIC

1 APOLOGIES FOR ABSENCE

To receive any apologies for absence.

2 MEMBERSHIP

To note the membership of the Committee as follows:

Conservative (8) Labour (6)
Mr R Bingham Mr F Cassidy
Mrs H Carrick Mr K Hamilton
Mr L Fisher Mr W McEwan
Mr J Bland Mr A McGuckin (Vice Chair)
Mr A Bowness Mr F Morgan
Mr D Wilson Mr M Worth
Mr D Whipp
Mr R Worthington

Liberal Democrat (3)
Mr G Cook (Chair)
Mr N Cotton
Mrs B Gray

West Cumbria Independent Group (1)
Mr J Holliday

3 DISCLOSURES OF INTEREST

Members are invited to disclose any disclosable pecuniary interest they have in any item on the agenda which comprises

1 Details of any employment, office, trade, profession or vocation carried on for profit or gain.

2 Details of any payment or provision of any other financial benefit (other than from the authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. (This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

3 Details of any contract which is made between you (or a body in which you have
a beneficial interest) and the authority

(a) Under which goods or services are to be provided or works are to be executed; and

(b) Which has not been fully discharged.

4 Details of any beneficial interest in land which is within the area of the authority.

5 Details of any licence (alone or jointly with others) to occupy land in the area of the authority for a month or longer.

6 Details of any tenancy where (to your knowledge)

(a) The landlord is the authority; and

(b) The tenant is a body in which you have a beneficial interest.

7 Details of any beneficial interest in securities of a body where

(a) That body (to your knowledge) has a place of business or land in the area of the authority; and

(b) Either –

(i) The total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(ii) If that share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

In addition, you must also disclose other non-pecuniary interests set out in the Code of Conduct where these have not already been registered.

Note

A “disclosable pecuniary interest” is an interest of a councillor or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they are civil partners).

4 EXCLUSION OF PRESS AND PUBLIC

To consider whether the press and public should be excluded from the meeting during consideration of any item on the agenda.

5 MINUTES
To confirm as a correct record the Minutes of a meeting held on 30 March 2017 (copy enclosed). (Pages 9 - 18)

6 CA10/25 - APPLICATION TO CORRECT UNIT VG2 OF THE REGISTER OF VILLAGE GREENS - NATLAND VILLAGE GREEN.

To consider a report from the Corporate Director – Economy and Highways (copy enclosed). (Pages 19 - 46)

7 CA10/26 - APPLICATION TO CORRECT UNIT VG104 OF THE REGISTER OF VILLAGE GREENS - SCHOOL GREEN, NETHERWASDALE.

To consider a report from the Corporate Director – Economy and Highways (copy enclosed) (Pages 47 - 74)

8 WILDLIFE & COUNTRYSIDE ACT 1981 – SECTION 53 APPLICATION TO ADD PUBLIC RIGHTS OF WAY AT SUNSTONES GARAGE IN THE PARISH OF BROUGHTON MOOR DISTRICT OF ALLERDALE (Pages 75 - 82)

9 REPORTS ON APPLICATIONS FOR PLANNING PERMISSION

[Electoral Divisions: Various]

These are applications which are determined by the County Council after taking into account the views of consultees and relevant representations. Applications in this category are prescribed by legislation. Private applications principally relate to minerals and waste management activities and associated development. County applications are developments which are to be carried out by the County Council itself or jointly with any other person.

To consider reports from the Corporate Director – Economy and Highways

a Application No: 1/16/9006. PROPOSAL: Periodic review of minerals permission. LOCATION: Solway Moss Peat Works, Mill Hill, Gretna, Dumfries & Galloway, DG16 5HU (Pages 83 - 102)

b Application No: 1/16/9009. PROPOSAL: Shared use Footway/Cycleway. LOCATION: Land adjacent to the South-west side of Kingmoor Road, Carlisle (Pages 103 - 126)

c Application No: 1/17/9001. PROPOSAL: Full planning application with accompanied updated topics of Environmental Statement submitted with 1/00/9005 to amend Condition No 1 to extend the life of the permission from 31 October 2020 to 31 October 2039; condition No 41 amend the approved plans to undertake the deposit of waste in different phases and to different pre-settlement contours from 44m AOD to 45m AOD. LOCATION: Hespin Wood Resource Park & Landfill Site, Todhills, Carlisle, CA6 4BJ. (Pages 127 - 146)

d Application No: 1/17/9006. PROPOSAL: Extension to existing materials recovery facility. LOCATION: Hespin Wood Resource Park & Landfill Site,
Application No: 1/17/9007. PROPOSAL: Demolition of the Lower Gaol Yard and Lonsdale buildings. LOCATION: Land to the rear of The Courts, Bush Brow, Carlisle, CA3 8NA (Pages 159 - 170)

Application No: 1/17/9008. PROPOSAL: Section 73 Variation of Conditions 1,10 & 11 of planning permission reference 1/11/9001 Unit A Rockcliffe Estate, Kingmoor Park, Carlisle CA6 4RW. LOCATION: North West Recycling, Unit A, Rockcliffe Industrial Estate, Kingmoor Park, Carlisle, CA6 4RW (Pages 171 - 180)

Application No: 2/17/9005. PROPOSAL: Section 73 application to Planning Permission 2/14/9007 to extend the life of the permission until 31 May 2022. LOCATION: Snowhill Quarry No.1, Snowhill Farm, Caldbeck, Wigton, Cumbria, CA7 8HL (Pages 181 - 198)

Applications: Refs. 2/17/9006 & 2/17/9007. Ref.2/17/9006: Removal of Condition 1 of Planning Permission 2/12/9009 to allow permanent retention of the portacabin structure housing the pre-school, toddlers and holiday play facility. Ref.2/17/9007: Extension to, and re-cladding of, existing portacabin structure. Location: Bolton Low Houses Pre-school, Toddlers and Holiday Play Facility at Bolton Low Houses C of E Primary School, Bolton Low Houses, Wigton, CA7 8PA (Pages 199 - 214)

Application No: 4/17/9006. PROPOSAL: A single span footbridge to be installed over Pow Beck that will be 12 metres in length and 1.5 metres in width. Stone surface ramps to be built at each end to provide access. To include diversion of Public Footpath numbered 423012 onto the new footbridge and temporary construction compound to the car park. LOCATION: Land Beyond the End of Seamill Lane near St Bees, Seamill Lane, St Bees (Pages 215 - 222)

Application No: 5/16/9010. PROPOSAL: Section 73 Application to vary Conditions 1, 2 and 3 of Planning Permission 5/96/9005 for the purposes of extending the timescales to complete quarrying operations at Holme Park Quarry until 2043 and to vary the phasing and restoration schemes LOCATION: Holme Park Quarry, Burton-in-Kendal, Carnforth, Cumbria, LA6 1NZ (Pages 223 - 266)

Application No: 5/16/9011. PROPOSALS Section 73 Planning Application to vary Planning Condition No.2 of Planning Permission Reference No. 5/90/3339 dated 11th January 1991 for the purposes of aligning the permitted hours of operations at the Ready Mixed Concrete Plant with all other operations at Holme Park Quarry, Cumbria LOCATION: Holme Park Quarry, Burton-in-Kendal, Carnforth, Cumbria, LA6 1NZ (Pages 267 - 280)

Application No: 6/17/9005. Proposal: Remediation of three plots of derelict land comprising altering ground conditions to provide development platforms. Works include erection of fencing, new and enhanced habitat areas and reinstatement of foul and surface water sewers. The development platforms will form part of the larger Barrow Waterfront
development. Location: Barrow Waterfront, Barrow-in-Furness, Cumbria (Pages 281 - 300)

10 SUBMISSIONS UNDER CONDITIONS

[Electoral Divisions: Various]

To consider a report from the Corporate Director – Economy and Highways (copy enclosed)

a Permission No: 4/16/9014. Proposal: Construction of new school buildings for St Benedicts and Mayfield schools with associated sports pitches/facilities, car parking, landscaping, new access onto Moresby Road and Red Lonning. Service access road onto U4008. Applicant: Cumbria County Council (Pages 301 - 306)

11 APPLICATIONS/CONSULTATIONS DETERMINED UNDER DELEGATED POWERS

[Electoral Divisions: Various]

To consider a report from the Corporate Director – Economy and Highways (copy enclosed)

To note that these are applications/consultations that have recently been determined by the Corporate Director – Economy and Highways (copy enclosed) in accordance with their schemes of delegation. (Pages 307 - 308)

12 APPLICATIONS/CONSULTATIONS PROPOSED TO BE DETERMINED UNDER DELEGATED POWERS

[Electoral Divisions: Various]

To note that these applications that have been submitted to the County Council but are not ready/appropriate for presentation to the Committee of for determination under delegated powers and/or have been recently withdrawn or determined as invalid or not requiring planning permission etc.

To consider a report from the Corporate Director – Economy and Highways (copy enclosed) (Pages 309 - 310)

13 APPLICATIONS TO BE CONSIDERED AT FUTURE MEETINGS

[Electoral Divisions: Various]

To consider a report from the Corporate Director – Economy and Highways (copy enclosed)

To note the list of outstanding planning applications. (Pages 311 - 312)

14 PLANNING ENFORCEMENT RELATED MATTERS
[Electoral Divisions: Various]

To consider a report from the Corporate Director – Economy and Highways (copy enclosed) (Pages 313 - 314)

15 FUTURE MEETING DATES

The next meeting of the Committee will be held in The Council Chamber, County Offices, Kendal, starting at 10.00 am on 15 August 2017.
DEVELOPMENT CONTROL AND REGULATION COMMITTEE

Minutes of a Meeting of the Development Control and Regulation Committee held on Thursday, 30 March 2017 at 10.00 am at Council Chamber - County Offices, Kendal, LA9 4RQ

PRESENT:

Mr A Clark (Chairman)
Mr LN Fisher (Vice-Chair)
Mr RK Bingham
Mrs HF Carrick
Mr F Cassidy
Mr N Cotton
Mr D Fletcher
Mrs BC Gray
Mr KR Hamilton
Mr AJ Markley
Mr W McEwan
Mr M Stephenson
Mr E Wilson
Mr H Wormstrup
Mr K Hitchen
Mr A McGuckin

Also in Attendance:-

David Hughes - Senior Monitoring and Enforcement Officer
Stuart Perigo - Interim Manager of Development Control and Countryside Management
Jayne Petersen - Senior Planning Officer
Rachel Brophy - Senior Planning Officer
Edward Page - Planning Officer
Andy Sims - PROW Mapping Officer

PART 1 – ITEMS CONSIDERED IN THE PRESENCE OF THE PUBLIC AND PRESS

245 APOLOGIES FOR ABSENCE

Apologies for absence were received from Mr F Morgan and Mr A Toole

246 CHANGES IN MEMBERSHIP

It was noted that Mrs Wharrier replaced Mr F Morgan as a member of the Committee for this meeting only.

247 DISCLOSURES OF INTEREST

There were no disclosures of interest made.
248 EXCLUSION OF PRESS AND PUBLIC

RESOLVED that the press and public be not excluded during consideration of any items of business.

249 MINUTES

The Senior Democratic Services Officer reported that further to the meeting of the Committee held on 5 October 2016, which considered Application No: 1/16/9005, (PROPOSAL: Erection of an energy from waste plant including reception and fuel processing hall, boiler house and air cooled condensing building and associated operations including 70 m high flue stack, 2 no silos for storage of fuel, 4 no silos for the storage of ash, car parking and new access roads, gatehouse, utilities building, weighbridge, and balancing pond. LOCATION: Kingmoor Park Industrial Estate, Land to North of Kings Drive, Carlisle, Cumbria, CA6 4SE), Mr Gareth Ellis had represented Mr David Morton and not Mr Thomas Stordy, as recorded in the Minutes.

RESOLVED that the minutes of the meeting held on 15 February 2017 be confirmed as a correct record and signed by the Chairman.

250 HIGHWAYS ACT 1980 SECTION 119 APPLICATION TO DIVERT PUBLIC FOOTPATH NO 572010 PARISH OF STAINTON DISTRICT OF SOUTH LAKELAND

A report from the Corporate Director – Economy and Highways was considered regarding a Highways Act 1980 Section 119 Application to divert Public Footpath no 572010 in the parish of Stainton, district of South Lakeland.

Mrs Gray, whose division in which the path was located, welcomed that the path would be brought into use.

RESOLVED that pursuant to the power set out at Part 2G paragraph 2.1 (g) (iii) of the Council’s Constitution, an order be made under Section 119 of the Highways Act 1980 to divert:

1 Those sections of public footpath no 572010 in the parish of Stainton as marked A-B and D-C to new sections shown A-E-F-G and D-I-H as shown on the plan at Appendix A and
2 That the Corporate Director - Resources and Transformation be authorised to take all necessary actions to confirm the order.

251 TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 257 - APPLICATION TO DIVERT PUBLIC FOOTPATH NOS 539057 & 539058 KIRKBY IRELETH, DISTRICT OF SOUTH LAKELAND

A report was considered from the Corporate Director – Economy and Highways regarding a Town and Country Planning Act 1990 – Section 257 – Application to
divert public footpath no’s 539057 and 539058 Kirkby Ireleth, district of South Lakeland.

Mr Fletcher whose division in which the footpaths were located stated that he had no objection to the footpath diversions.

Members were advised that the legal agreement providing for ecological mitigation had now been completed and the Decision Notice at Burlington Quarry had now been issued.

RESOLVED that Pursuant to the power set out at Part 2G paragraph 2.1 (g)(iii) of the Council’s Constitution, an order be made under Section 257 (1) of the Town and Country Planning Act 1990 to divert

1 Public footpath no 539057 as shown marked D-B to a new route D-A and
2 Public Footpath no 539058 as shown A-B-C to a new route shown A-E-C

on the plan at Appendix A of the report and that the Corporate Director Resources and Transformation be authorised to take all the necessary actions to confirm the order.

252 REPORTS ON APPLICATIONS FOR PLANNING PERMISSION

a Application No: 1/17/9003. PROPOSAL: Proposed New Build 60 no Bed Care Home with Associated Parking and Landscaping. LOCATION: Former Morton Park Primary School Site, Burnrigg, Carlisle CA2 6QH

Members considered a report from the Corporate Director Economy and Highways regarding Application No: 1/17/9003. PROPOSAL: Proposed New Build 60 no Bed Care Home with Associated Parking and Landscaping. LOCATION: Former Morton Park Primary School Site, Burnrigg, Carlisle CA2 6QH.

Mr McGuckin, whose division was adjacent to the division where the application was located supported the development and moved that planning permission be granted, which was seconded.

In the following debate, members commented on the requirement for separate water meters in the building, construction vehicles parking in the vicinity of the building and on the shape of the roof.

A number of members, in supporting the proposal, suggested the provision of solar panels on the new building, commenting on how they would improve the building’s efficiency and which should be the subject of a condition. The Interim Manager of Development Control and Countryside Management clarified that provision of solar panels would be the responsibility of the applicant, at a later stage in the development. He confirmed that there were no proposals for solar panels included
in the planning application before members, however it was members’ prerogative to impose a condition on the applicant to include a scheme to provide for green energy. He advised that specifying solar panels as the source of renewable energy may not be the most appropriate given the range of renewable energy options available, rather, a more general condition relating to green energy may be a better option if members considered it appropriate.

Mr Hamilton proposed an amendment that solar panels be installed on the building. This was not seconded. A number of members acknowledged that the proposed development would be built to high energy efficiency specifications and designed with energy efficiency in mind, which was confirmed by the Interim Manager of Development Control and Countryside Management.

Mr Markley then proposed an amendment that planning permission be granted with the applicant investigating and incorporating a source of renewable energy into the building. This was not seconded. A number of members raised that the Local Plan would include green policies that the developer would need to take into consideration in the development.

Mr McGuckin, proposed an alteration to his own motion, that planning permission be granted with a letter forwarded to the Applicant encouraging the use of green energy sources in the development. This was agreed by affirmation of the Committee.

RESOLVED that planning permission be granted subject to the conditions set out in Appendix 1 of the report and a letter be forwarded to the Applicant encouraging the use of green energy in the development.

b Application No: 2/16/9011. PROPOSAL: Extension to works site, erection of plant, machinery and kiosk buildings and related ancillary development. LOCATION: Cockermouth Wastewater Treatment Works, Low Road (C2068), Cockermouth, Cumbria, CA13 0HH

A report was considered from the Corporate Director – Economy and Highways regarding Application No: 2/16/9011. PROPOSAL: Extension to works site, erection of plant, machinery and kiosk buildings and related ancillary development. LOCATION: Cockermouth Wastewater Treatment Works, Low Road (C2068), Cockermouth, Cumbria, CA13 0HH.

Mr Bingham commented on the archaeological merit of the site and proposed that an archaeological watching brief be added as a condition, however this was not seconded or supported by the Committee.

RESOLVED that:

a) The Assessment of Likely Significant Effect (ALSE) dated 2 February 2017 undertaken by the applicant, in their position as a competent authority for the purposes of the Conservation of Habitats and Species Regulations 2010, be adopted;
b) Planning Permission be granted subject to the conditions set out in Appendix 1 of the report.

c) An order be made under the provisions of Section 257 of the Town and Country Planning Act 1990 (as amended by Section 12 of the Growth and Infrastructure Act 2013) to permanently divert a section of public footpath the report; and

d) The Corporate Director – Resources and Transformation take all necessary actions to confirm the order referred to in c).

c Application Nos: 2/17/9001 & 2/17/9002. PROPOSALS: Ref. 2/17/9001: Full Planning Permission for Demolition of the remaining unsafe elements of the bridge and construction of a new bridge, training walls and scour protection. Ref. 2/17/9002: Listed Building Consent for Demolition of the remaining unsafe elements of the bridge. LOCATION: Bell Bridge, Welton, Carlisle, CA5 7HA

A report was considered from the Corporate Director – Economy and Highways regarding Application No’s: 2/17/9001 & 2/17/9002. PROPOSALS: Ref. 2/17/9001: Full Planning Permission for Demolition of the remaining unsafe elements of the bridge and construction of a new bridge, training walls and scour protection. Ref. 2/17/9002: Listed Building Consent for Demolition of the remaining unsafe elements of the bridge. LOCATION: Bell Bridge, Welton, Carlisle, CA5 7HA.

Members’ attention was drawn to the update sheet which outlined further comments from Sebergham and Welton Parish Council to the proposal. Mr Markley welcomed that the bridge was being reinstated with Mr Bingham welcoming that materials were being reused.

RESOLVED that

a) The Assessment of Likely Significant Effect (ALSE) be adopted

b) Planning permission be granted subject to the conditions set out in Appendix 1 of the report, subject to amendments outlined in the update sheet to the Committee

c) Listed Building Consent be granted subject to the conditions set out in Appendix 2 of the report.

d) Application No: 3/17/9003. Construction of a new staff car park (12 spaces), formation of 4 disabled parking bays and 2 visitor parking bays (on Church Road) and a drop off point at the front of the school, minor external alterations to add external doors in two locations, addition of a MUGA pitch with fencing and six flood lights to replace the existing all weather surface (available for community use). Addition of new adventure playground for the primary school pupils to replace the one at their existing site, creation of new footpath linking the front and rear of
the school, new timber 900mm palin fence to enclosed play
area and internal alterations to facilitate Alston Primary School
and Barnados Unit moving into Samuel Kings School.
LOCATION: Samuel King's School, Church Road, Alston,
Cumbria, CA9 3QU

A report was considered from the Corporate Director – Economy and Highways
regarding Application No: 3/17/9003. Construction of a new staff car park (12
spaces), formation of 4 disabled parking bays and 2 visitor parking bays (on Church
Road) and a drop off point at the front of the school, minor external alterations
to add external doors in two locations, addition of a MUGA pitch with fencing and six
flood lights to replace the existing all weather surface (available for community use).
Addition of new adventure playground for the primary school pupils to replace the one at their existing site, creation of new footpath linking the
front and rear of the school, new timber 900mm palin fence to enclosed play
area and internal alterations to facilitate Alston Primary School and Barnados
Unit moving into Samuel Kings School. LOCATION: Samuel King's School, Church Road, Alston, Cumbria, CA9 3QU.

Members’ attention was drawn to the update sheet which outlined an amendment to
condition 7 to restrict the hours of the games area and lighting. Clarity was provided
by the Planning Officer on the number of parking spaces and a member familiar with
the site commented that the number of parking spaces were acceptable and
welcomed the proposal.

RESOLVED that planning permission be granted subject to the conditions set out in
Appendix 1 of the report to include the amendment to Condition 7
as outlined in the Update Sheet.

e Application No: 4/17/9001. PROPOSAL: Proposed new build 60 no.
bed Care Home with associated car parking and landscaping.
LOCATION: Former Sekers Factory Site, Cleator Moor Road,
Whitehaven, Cumbria, CA28 8RZ

A report from the Corporate Director – Economy and Highways was considered
regarding Application No: 4/17/9001. PROPOSAL: Proposed new build 60 no.
bed Care Home with associated car parking and landscaping. LOCATION: Former
Sekers Factory Site, Cleator Moor Road, Whitehaven, Cumbria, CA28 8RZ.

Mr Wormstrup, after congratulating officers on an excellent piece of work, moved
that planning permission be granted, with it being seconded by Mr Fisher. Mrs
Wharrrier, in whose division the proposal was located, advised that along with local
residents, she welcomed the proposal. Members requested that a condition be
included that the applicant consider renewable energy in the development of the
building.

RESOLVED that planning permission be granted subject to the conditions in
Appendix 1 of the report and a letter be forwarded to the
Applicant encouraging the use of green energy in the development.

f Application No: 6/17/9004. PROPOSAL: Section 73 application to vary Condition 7 (Unexploded Ordnances) of Planning Permission 6/16/9002. LOCATION: "Marina Village Access", Land to the south of Salthouse Road, between Rawlinson Street and Ruskin Terrace, Barrow-in-Furness

A report was considered from the Corporate Director – Economy and Highways regarding Application No: 6/17/9004. PROPOSAL: Section 73 application to vary Condition 7 (Unexploded Ordnances) of Planning Permission 6/16/9002. LOCATION: "Marina Village Access", Land to the south of Salthouse Road, between Rawlinson Street and Ruskin Terrace, Barrow-in-Furness.

RESOLVED that planning permission be granted subject to the conditions set out in Appendix 1 of the report.

g Application No: 6/16/9008. PROPOSAL: Installation of Twin Flue and Support Mast for new Biomass Unit within existing building and installation of portable de-humidification skips LOCATION: Sinkfall Farm, Rakesmoor Lane, Barrow-in-Furness, LA14 4QE

A report was considered from the Corporate Director – Economy and Highways regarding Application No: 6/16/9008. PROPOSAL: Installation of Twin Flue and Support Mast for new Biomass Unit within existing building and installation of portable de-humidification skips LOCATION: Sinkfall Farm, Rakesmoor Lane, Barrow-in-Furness, LA14 4QE.

After a query regarding the robustness of the measures in place to monitor emissions from the flue, the Planning Officer stated that planning conditions were robust and there would be regular monitoring by the Borough Council via the Environmental Permit. Mr Markley supported the proposal and moved the recommendation which was seconded.

RESOLVED that planning permission be granted subject to the conditions set out in Appendix 1.

253 SUBMISSIONS UNDER CONDITIONS

a Permission No: 5/15/9007 Condition: 11 Location: Land to the South of the junction of Daltongate and A590, Ulverston

A report was considered from the Corporate Director Economy and Highways regarding Permission No: 5/15/9007 Condition: 11 Location: Land to the South of the junction of Daltongate and A590, Ulverston.

The Planning Officer responded to members’ questions regarding road configuration and traffic light provision.
RESOLVED that the details submitted under Condition 11 of planning permission 5/15/9007 be approved and that the pre-commencement element of this condition be discharged.

b Permission No: 6/16/9002. Conditions: 6, 8, 9 and 10. Development: Creation of new access road with associated landscaping (including fencing and walling) and enabling demolition of brick wall sections. Location: "Marina Village Access", Land to the south of Salthouse Road, between Rawlinson Street and Ruskin Terrace, Barrow-in-Furness

A report was considered from the Corporate Director – Economy and Highways regarding Permission No: 6/16/9002. Conditions: 6, 8, 9 and 10. Development: Creation of new access road with associated landscaping (including fencing and walling) and enabling demolition of brick wall sections. Location: "Marina Village Access", Land to the south of Salthouse Road, between Rawlinson Street and Ruskin Terrace, Barrow-in-Furness.

RESOLVED that the details submitted under conditions 6, 8, 9 and 10 of planning permission 6/16/9002 be approved and the pre-commencement element of these conditions be discharged.

254 APPLICATIONS/CONSULTATIONS DETERMINED UNDER DELEGATED POWERS

RESOLVED that the list of applications/consultations determined under delegated powers be noted.

255 APPLICATIONS/CONSULTATIONS PROPOSED TO BE DETERMINED UNDER DELEGATED POWERS

RESOLVED that the list of applications/consultations proposed to be determined under delegated powers be noted.

256 APPLICATIONS TO BE CONSIDERED AT FUTURE MEETINGS

RESOLVED that the list of applications to be considered at future meetings be noted.

257 PLANNING ENFORCEMENT RELATED MATTERS

a Reference No: 2/15/9008. Report Content: Report of outcome of Appeal against decision to refuse Certificate of Lawful Use or Development. The Close, Mealsgate

A report was considered from the Corporate Director Economy and Highways regarding Reference No:2/15/9008 on the outcome of an Appeal against decision to refuse Certificate of Lawful Use or Development. The Close, Mealsgate.
RESOLVED that the report be noted.


A report was considered from the Corporate Director – Economy and Highways regarding Reference No: EN16-6003, providing an update on a temporary Stop Notice served at the former PartyLite Factory, Sandscale Park, Barrow-in-Furness.

RESOLVED that the report be noted.

258 FUTURE MEETING DATES

As it was the last meeting of the Committee before the election on 4 May 2017, the Chairman thanked both the Committee and officers for their work.

The meeting ended at 11.45 am
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CA10/25 – Application to correct Unit VG2 of the Register of Village Greens – Natland Village Green.

1.0 Executive Summary

1.1 Cumbria County Council is the registration authority for Common Land and Town and Village Greens under the Commons Act 2006.

1.2 An application has been received from Natland Parish Council to correct unit No. VG2 of the register of village greens – Natland Village Green.

1.3 The purpose of this report is to request Members to make a decision as to whether the application should be granted and a correction made to the Council’s register of village greens.

2.0 Policy Position, Budgetary and Equality Implications, and Links to Council Plan

2.1 The relevant corporate theme is the creation and protection of a high quality environment for all.

2.2 This matter is a decision-making process of a quasi-judicial nature. There should be no policy or political consideration given and any potential financial implication should be ignored.

3.0 Recommendation

3.1 It is recommended that the Committee accepts the application and corrects the Register of Village Greens for the reasons contained within this report and on the specific ground that Cumbria County Council as Commons Registration Authority made a mistake when producing the second edition of the register map under the Commons Registration Act 1965.
4.0 BACKGROUND

The Application:

4.1 On 28 November 2016 the Council, as registration authority for Common Land and Town and Village Greens, received an application on Form CA10 ("the Application") under Section 19(2)(a) of the Commons Act 2006 ("the 2006 Act") from Natland Parish Council ("the Applicant") for the correction of register unit VG2 Natland Village Green in relation to the land shown coloured red on the plan attached at Appendix 1 (hereafter called "the Application Land").

4.2 A copy of the Application is attached to this report at Appendix 2.

4.3 Natland Village Green was provisionally registered as village green on 1 August 1967 under Section 4 of the Commons Registration Act 1965 pursuant to application no. 23 made by the Clerk of Natland Parish Council, L. Hicks, on 26 May 1967 ("the 1967 Application"). A copy of the 1967 Application, which includes a map showing 4 parcels of land comprising the original application land, is attached at Appendix 3.

4.4 The provisional registration became final on 17 December 1971 and the land became registration unit VG2. A copy of the first edition register map is attached at Appendix 4.

4.5 A copy of the second edition register map (the current legal map record) including a zoomed view of VG2 is attached at Appendix 5. The Applicant claims that the information contained in the map submitted by L. Hicks as part of the 1967 Application and subsequently the first edition of the register map was transcribed inaccurately onto the second edition of the register map for VG2 in that only 3 of the 4 parcels of land were included. The Applicant requests that the Application Land be recorded on the register map for VG2 Natland Village Green.

4.6 The following were submitted as supporting evidence by the Applicant:

- Map indicating the claimed totality of the land registered as VG2;
- Copy of the first edition register map for VG2 (in possession of the Registration Authority);
- Copy section of the second edition register map for VG2 (in possession of the Registration Authority).

4.7 On 3 February 2017 the Application was deemed to have been duly made and a notice of application was advertised on Cumbria County Council’s website and displayed prominently on the site of the Application Land and was also sent to all relevant parties in accordance with Schedule 7 of the Commons Registration (England) Regulations 2014 ("the 2014 Regulations"). Anyone wishing to object to the Application had until 17 March 2017 to do so in writing.

4.8 No objections were received.
4.9 The Law:

4.10 Part 1 of the 2006 Act was implemented in Cumbria on 15th December 2014 and allows applications to be made to amend the Register of Common Land and Town or Village Greens.

4.11 The Application is made under Section 19(2)(a) of the 2006 Act which states:

“19 Correction

(1) A commons registration authority may amend its register of common land and town or village greens for any purpose referred to in subsection (2).

(2) those purposes are –
(a) correcting a mistake made by the commons registration authority in making or amending an entry in the register.”

The application of the law to the facts and evidence of the Application:

4.12 The application complies with the formal requirements as to form and content as stipulated in the 2014 Regulations.

4.13 The Officer has considered the 1967 Application, first and second editions of the register map and other supporting documents along with the statement made by the Applicant and agrees with the Applicant’s assertion that the Application Land was inaccurately transposed from the first edition map to the second edition map by virtue of a mistake made by the Registration Authority.

4.14 Section 19(5) states:

“A mistake in the register may not be corrected in this section if the authority considers that, by reason of reliance reasonably placed on the register by any person or for any other reason, it would in all the circumstances be unfair to do so.”

4.15 The Officer has established that there are no rights of common registered on VG2.

4.16 Notwithstanding the matters set out at 4.8 above, no objections or comments have been made to the Registration Authority from anyone with a legal interest in the land.

4.17 In view of the above, the Officer does not consider it to be unfair to any person to make the requested correction to the register.

4.18 The Officer has consulted the second edition of the register map and found it to contain a pencil note stating “Re VG2 – 1st edition maps for VG2 4 areas. There appears to have been another area of registered V.G. [Village Green] which is not shown on this plan, only 3 areas shown green”.

4.19 The Officer, therefore, concludes that on the balance of probabilities the Application Land is part of VG2 and as such should be included as part of the legal map record and recorded on the register map.
5.0 Legal Implications

5.1 The Council has a statutory duty to keep a register of Common Land and since the implementation of Part 1 of the 2006 Act, has the power to amend the register. The Council’s Constitution at Part 2G 2.1) f) i) delegates this responsibility to the Development Control and Regulation Committee.

5.2 In considering the Application, Members must consider all of the evidence available to them, and must be satisfied that the evidence shows that each aspect of the statutory conditions set out at Section 19 (2) (a) of the 2006 Act have been met. The burden of proof in this regard is firmly upon the Applicant to provide the required evidence. The standard of proof to be applied is the usual civil standard “on the balance of probabilities”, i.e. it must be more likely than not.

5.3 The role of this Committee is to reach its own determination on the matters of fact and law arising as a result of the Application. It is for Members to determine the Application fairly, putting aside any considerations of the desirability of the land being registered as Common Land or being put to other use.

5.4 Although the findings of the Officer Recommendations are for the Committee to proceed with determination and acceptance of the Application, the Committee is not bound to follow the Recommendation; providing that in reaching its decision it applies the correct legal principles and duly considers the evidence. Therefore Members are free to accept or reject any of the Recommendations in the report. If the members reject the Officer findings and decide either not to determine the Application or to reject the Application and keep the Application Land on the register of Common Land, the Committee should set out their reasons at the meeting.

5.5 There is no right of appeal against a Committee decision. The route for any challenges would be via judicial review in the High Court, where the issue would be whether the Committee had misdirected itself in law. Should a judicial review application be successful, the Council would be obliged to re-determine the Application, a successful judicial review application would not of itself determine that the Application Land was or was not Common Land.

5.6 There are no further legal considerations, all other legal considerations, issues and implications have been addressed within the detail of the report.

6.0 Options

6.1 The Committee may accept or reject the Recommendation in whole or in part.

6.2 If the Recommendation is accepted the Registration Authority will give effect to the determination by amending register unit VG2 and the register map to confirm the inclusion of the Application Land in accordance with the 2014 Regulations.
6.3 If the Recommendation is rejected the Application Land will remain excluded from the register map.

6.4 Members should note that the decision of the Committee in relation to an application to correct the common land register is a legal decision and is not a matter of policy or discretion.

7.0 Conclusion

7.1 The Officer is of the opinion that the Application has been validly made. The evidence submitted by the Applicants and the Officer’s own research support the claim that an error was made by the registration authority. Under Section 19(2)(a) of the 2006 Act this error can be corrected.

7.2 No objections were received and the Officer is of the opinion that the inclusion of the Application Land to the register map for VG2 land will not be unfair to any person.

7.3 The Officer recommends that this Committee resolves that the Register of Village Greens be corrected and the Application Land be included as part of the register map for VG2.

Liz Fitton
Commons Officer
3 May 2017

APPENDICES

Appendix 1 - Map of the Application Land
Appendix 2 – Application CA10/25
Appendix 3 – 1967 Application
Appendix 4 – First Edition Register map for VG2
Appendix 5 – Second Edition Register Map VG2

IMPLICATIONS

Staffing: None
Financial: There would be cost implications in the event of an application for judicial review, however the Council is the registration authority and therefore has a statutory duty to decide applications.
Property: None
Electoral Division(s): Kendal Oxenholme and Natland
Human Rights: The Council as registration authority has to make a decision in accordance with the law and in particular with the provisions of the 2006 Act, given these legal criteria a decision must reflect the legislation despite any other rights of individuals.
PREVIOUS RELEVANT COUNCIL OR EXECUTIVE DECISIONS

No previous relevant decisions

CONSIDERATION BY OVERVIEW AND SCRUTINY

Not considered by Overview and Scrutiny

BACKGROUND PAPERS

Commons Act 2006
Commons Registration (England) Regulations 2014
Common Land: Guidance to Commons Registration Authorities and Applicants 2015.

Contact: Liz Fitton, 01228 221028, liz.fitton@cumbria.gov.uk
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Commons Act 2006: section 19
Application to correct the register

This section is for office use only

Official stamp

APPLICATION NUMBER

COMMENTS ACT 2006
CUMBRIA COUNTY COUNCIL
COMMONS REGISTRATION AUTHORITY

2 8 NOV 2016

Applicants are advised to read ‘Part 1 of the Commons Act 2006: Guidance to applicants’ and to note:

• All applicants should complete boxes 1–8.
• Any person can apply under section 19 of the Commons Act 2006.
• You will be required to pay a fee unless your application is to correct a mistake made by the registration authority (section 19(2)(a)) or to remove a duplicate entry (section 19(2)(c)). Ask the registration authority for details. You would have to pay a separate fee should your application be referred to the Planning Inspectorate, unless it is to correct a mistake made by the authority or to remove a duplicate entry.

Note 1

Insert name of commons registration authority.

1. Commons Registration Authority

To the:

Tick one of the following boxes to confirm that you have:

enclosed the appropriate fee for this application: [ ]
or

applied for a purpose in section 19(2)(a) or (c), so no fee is enclosed: [ ]
2. Name and address of the applicant

**Name:**

**Postal address:**

**Telephone number:** 07712-530932

**Fax number:**

**E-mail address:** kenthale7 @ hotmail.com

3. Name and address of representative, if any

**Name:**

**Firm:**

**Postal address:**

**Telephone number:**

**Fax number:**

**E-mail address:**
4. Basis of application for registration and qualifying criteria

Specify the register unit number to which this application relates:

\[ VG 2 \] CUMBERLAND

Specify the rights number to which this application relates (if relevant):

Tick one of the following boxes to indicate the purpose (described in section 19(2)) of your application. Are you applying to:

- Correct a mistake made by the commons registration authority: [x]
- Correct any other eligible mistake: [ ]
- Remove a duplicate entry from the register: [ ]
- Update the details of any name or address referred to in an entry: [ ]
- Record accretion or diluvion: [ ]

5. Describe the purpose for applying to correct the register and the amendment sought

To correct the registered map by registering one of the pieces of land which was omitted when transposing to the second edition map, and by using an acceptable scale which can show the registered land with sufficient accuracy.
Note 6
List all supporting consents, documents and maps accompanying the application, including evidence of the mistake in the register. There is no need to submit copies of documents issued by the registration authority or to which it was a party but they should still be listed. Use a separate sheet if necessary.

6. Supporting documentation

Note 7
List any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

7. Any other information relating to the application
### Note 8
The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or an unincorporated association.

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**REMININDER TO APPLICANT**

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted.

You are advised to keep a copy of the application and all associated documentation.

---

**Data Protection Act 1998**

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the commons registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000.
Application for the registration of land as a town or village green

IMPORTANT NOTE: Before filling in this form, read carefully the notes on the back. An incorrectly completed application form may be rejected.

To the Westmorland County Council.

Application is hereby made for the registration as a town or village green of the land described below.

Part 1.
Name and address of the applicant.
Hatland Parish Council

Part 2.
Name and address of solicitor, if any.

Part 3.
Particulars of the land to be registered, i.e. the land claimed to be a town or village green.
Name by which usually known Hatland Village Green.
Locality Centre of the village of Hatland, Westmorland.

*Delete reference to plan where name is submitted. A plan must be used except as mentioned in Note 3.

Red shading line.

35
Part 4.

(See Note 6.)

For applications submitted after 30th June, 1968 (to be disregarded in other cases).

Does the prescribed fee of £5 accompany this application? If not, state whether this is for reason (a) or (b) mentioned in Note 6, and give the appropriate particulars required by that note.

Signature of applicant or of person on applicant's behalf

The application must be signed by the applicant personally, unless the applicant is a body corporate or unincorporate, in which case it must be signed by the secretary or some other duly authorized officer.

Date: 06/05/67.

[Signature]
Statutory Declaration in Support

To be made by the applicant personally, unless the applicant is a body corporate or unincorporate, in which case the declaration must be made by the person who has signed the application. Inapplicable wording should be deleted throughout.

1. **Lawrence Hicks**
   solemnly and sincerely declare as follows:

1. I am the person who has signed the foregoing application.

2. I am *CLERK* to the applicant and am duly authorised by
   the applicant to make the foregoing application.

3. I have read Note 2 on the back of the application form and believe that the land
   described in the application is a town or village green.

4. The plan now produced and shown to me marked "A" is the plan
   referred to in the application.

And I make this solemn declaration, conscientiously believing the same to be true, and
by virtue of the Statutory Declarations Act 1835.

Declared by the said

H. Hicks

at

Helton School

in the Parish of Helton

this 26th day of May 1967

Before me,

Signature

Address

Nendal

Qualification

Justice of the Peace

Reminder to officer taking declaration:
Please initial all alterations and mark any plan as an exhibit.
Notes

1. Registration authorities

The applicant should take care to submit his application to the correct registration authority. This depends on the situation of the land which is claimed to be a town or village green. Except where there is an agreement altering the general rule (see below), the registration authority for land in an administrative county is the county council; for land in a county borough, it is the county borough council, and for land in Greater London, it is the Greater London Council.

In the case of land which is partly in the area of one registration authority and partly in that of another, the authorities may by agreement provide for one of them to be the registration authority for the whole of the land. Public notice is given of such agreements, but an applicant concerned with land lying close to the boundary of an administrative area, or partly in one area and partly in another, should, if in doubt, enquire whether an agreement has been made and, if so, which authority is responsible for that land.

2. Meaning of "town or village green"

"Town or village green" is defined in the Commons Registration Act 1965 as land which has been allotted by or under any Act for the recreation or recreation and the use of any locality or on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes on which the inhabitants of any locality have indulged in such sports and pastimes as of right for not less than twenty years.

3. Land descriptions

Except where the land has already been registered under the Act (as to which see below and Note 5), the particulars asked for at part 3 of the form must be given, and a plan must accompany the application. The particulars in part 3 are necessary to enable the registration authority to identify the land concerned, but the main description of the land will be by means of the plan. This must be drawn to scale in ink or other permanent medium and be on a scale of not less, or not substantially less, than six inches to one mile. It must show the land to be described by means of distinctive colouring (a coloured edge inside the boundary will usually suffice), and it must be marked as an exhibit to the statutory declaration (see Note 4).

Where the land has already been registered and comprises the whole of the land in one or more register units, a plan is unnecessary provided the register and register unit number(s) are quoted (see Note 5). If the application concerns only part of the land comprised in a register unit, however, it will not always be possible to dispense with a plan. A plan will not be needed if the land can be described by reference to some physical feature such as a road, a river or railway, so that the description might, for example, read "The land in register unit No. 1 lying to the south of the road from A to B". Where this method is not practicable the land must be described by a plan prepared as mentioned above. In cases where the procedure of reference to some physical feature is adopted, part 3 of the form should be adapted accordingly, and where no plan is submitted inappropriate references to a plan should be deleted.

4. Statutory declaration

The statutory declaration must be made before a justice of the peace, commissioner for oaths or notary public. Any plan referred to in the statutory declaration must be marked as an exhibit and signed by the officer taking the declaration (initialling is insufficient). A plan is marked by writing on the face in ink an identifying symbol such as the letter 'A'. On the back of the plan should appear these words:

This is the exhibit marked 'A' referred to in the statutory declaration (name of declarant) made this (date) 19 before me.

(Signature and qualification)

If there is more than one plan care should be taken to choose a different identifying letter for each.

5. Previous registration: inspection and search of registers

It is possible that the land has already been registered under the Act. If it has been registered as a town or village green it will not be registered as such again pursuant to a further application, but the further application will be noted on the register. This will enable the applicant to notice any objection to the registration. If the land has been registered as common land, registration as a town or village green will take effect as an objection to the earlier registration as common land and the latter will take effect as an objection to the later registration as a town or village green. It is also possible that the land is exempt from registration; the registration provisions of the Act do not apply to the New Forest, Epping Forest or the Forest of Dean, nor to any land exempted by order under section 11. To ascertain whether land has been registered under the Act, or is exempt, anyone may inspect the registers at the office of the registration authority, or the copies of register entries affecting land in their areas held by other local authorities including parish councils. Alternatively, an official certificate of search may be obtained from the registration authority. A requisition for an official search must be made in writing on C.R. Form No. 21, a separate requisition being required for each register. If the land is registered, the certificate will reveal the register unit number(s) and whether any rights of common and claims to ownership are registered. If the land is exempt from registration, the certificate will say so, and it will not be possible to register it under the Act.

6. Submission of application: fees

The application must reach the registration authority properly completed during one of the registration periods allowed under the Act. The first registration period begins on 2nd January, 1967 and ends on 30th June, 1968, and the second begins on 1st July, 1968 and ends on 2nd January, 1970. There is no charge for applications made during the first registration period, but every application made during the second registration period must be accompanied by a fee of £5, unless—

(a) during the first registration period the applicant gave the registration authority notice in C.R. Form No. 5 of his intention to make the application, or

(b) the land did not become registrable as a town or village green until after 30th April 1968.

If (a) applies, the applicant should quote in part 4 of the application the number on the acknowledgment from the registration authority. If (b) applies, he should state in part 4 when and by what means the land became a town or village green.

7. Action by registration authority

The registration authority will on receipt of the application send an acknowledgment. If this is not received within 10 days the applicant should communicate with the authority. Later, the applicant will be informed whether the application has been accepted or rejected. If it is accepted, then—

(a) if the land is not already registered as a town or village green, it will be provisionally registered as such, or

(b) if it is already registered as a town or village green, the application will be noted on the register.

The applicant will in either case be informed, and will in due course be notified of any objection to the registration. (As to objections, see the official explanatory booklet "Common Land", available free from local authorities.)

8. False statements: groundless applications

The making of a false statement to procure registration may render the maker liable to prosecution. Moreover, a registration which is objected to will, unless the registration authority permits it to be cancelled, or the objection is withdrawn, be referred to a Commons Commissioner. If, at the hearing before the Commissioner, the registration cannot be substantiated, it will be removed from the register, and the applicant may be ordered to pay the costs of the objector.)
WESTMORLAND COUNTY COUNCIL

COMMONS REGISTRATION ACT 1965

Notification of Disposal of an Application for Registration (Rights)

Application No. 22.............. Register COMMON LAND

Short description of land over which right exercised MEWS HOUSE

To (name of applicant) MISS N. L. WRIGHT, MEWS HOUSE

Lone, Hawesdown Mill, Windermere

(or his Solicitor)

Your reference

1. The right of common described in the application has been provisionally registered under the following No(s):-

Register unit No. Entry No.

CL 1b 1

(A register unit number with the prefix CL indicates a registration in the Register of Common land. If the prefix is VG the registration is in the Register of Town or Village Greens)

2. The right of common described in the application has already been provisionally registered under the following No(s):-

Register unit No. Entry No.


Your application has accordingly been noted on the register. This means you will receive notice of any objection to the registration, and that the registration may not be cancelled or modified, except by direction of a Commons Commissioner, without your written consent.

(and the registrations conflict. Each, therefore, has to be treated as an objection to the other, and the registers have been so noted. If you consider that the registration(s) made pursuant to your application should be cancelled or modified, you may make a request to this effect to the Council as registration authority, and the Council may, if it thinks fit, and subject to any necessary consents, cancel or modify (it) (them) accordingly. Unless (this) (these) registration(s), or (the one) (these) with which (it) (they) conflict(s), (is) (are) cancelled, the matter will be referred to a Commons Commissioner for decision, and you will be entitled to appear at the hearing before him. You will be notified of the time and place of the hearing, which will not in any case take place before 1st January, 1972. If there are registrations during the second registration period affecting the land the hearing will not take place before 1st July, 1972).

* Delete as necessary.
This is the exhibit marked 'A' referred to in the statutory declaration of 1 June, 1974 in the re-...
CA10/26 – APPLICATION TO CORRECT UNIT VG104 OF THE REGISTER OF VILLAGE GREENS – SCHOOL GREEN, NETHERWASDALE.

1.0 EXECUTIVE SUMMARY

1.1 Cumbria County Council is the registration authority for Common Land and Town and Village Greens under the Commons Act 2006.

1.2 An application has been received from Julius Piers Manduell, Matthewman David Manduell, Sir John Manduell & Lady Renna Manduell to correct unit No. VG104 of the register of Village Greens – School Green, Netherwasdale.

1.3 The purpose of this report is to request Members to make a decision as to whether the application should be granted and a correction made to the Council’s register of village greens.

2.0 POLICY POSITION, BUDGETARY AND EQUALITY IMPLICATIONS, AND LINKS TO COUNCIL PLAN

2.1 The relevant corporate theme is the creation and protection of a high quality environment for all.

2.2 This matter is a decision-making process of a quasi-judicial nature. There should be no policy or political consideration given and any potential financial implication should be ignored.

3.0 RECOMMENDATION

3.1 It is recommended that the Committee accepts the application and corrects the Register of Village Greens for the reasons contained within this report and on the specific ground that Cumbria County Council as Commons Registration Authority made a mistake when producing the first edition of register map under the Commons Registration Act 1965.
4.0 BACKGROUND

The Application:

4.1 On 17th January 2017 the Council, as registration authority for Common Land and Town and Village Greens, received an application on Form CA10 (“the Application”) under Section 19(2)(a) of the Commons Act 2006 (“the 2006 Act”) from Julius Piers Manduell, Matthewman David Manduell, Sir John Manduell & Lady Renna Manduell (“the Applicants”) for the correction of register unit VG104 School Green, Netherwasdale in relation to the land shown outlined in red on the plan attached at Appendix 1 (hereafter called “the Application Land”).

4.2 A copy of the Application is attached to the report at Appendix 2.

4.3 The School Green, Netherwasdale was provisionally registered as a village green on 12th June 1970 under Section 4 of the Commons Registration Act 1965 pursuant to application no. 1632 made by J. S. Whinerey, the chairman of Netherwasdale Parish Meeting, on 17th October 1969 (“the 1969 Application”). A copy of the 1969 Application including a map showing the original application land is attached at Appendix 3.

4.4 Following a Commons Commissioner’s decision dated 18th March 1982 (Appendix 4) the provisional registration became final on 17th August 1982 and the land became registration unit VG104

4.5 An extract from the first edition register map showing the extent of registration unit VG104 is attached at Appendix 5.

4.6 An extract from the second edition register map (the current legal map record) showing the extent of registration unit VG104 is attached at Appendix 6.

4.7 For clarity a map showing the Application Land in relation to the registered village green is attached at Appendix 7.

4.8 The Applicants claim that the information contained in the map submitted by J. S. Whinerey with the 1969 Application was transcribed inaccurately onto the first edition of the register map for VG104 (and subsequently transferred to the second edition register map), in that the Application Land was included within the boundary of that Village Green. The Applicants request that the Application Land be removed from register unit VG104.

4.9 The following supporting evidence was submitted by the Applicants:

- Copy of the 1969 Application
- Copy of a plan produced by Hough & Tullett

4.10 The Application was deemed to be duly made and on 3rd February 2017, a notice of application was advertised on Cumbria County Council’s website, displayed prominently on the site of the Application Land and was also sent to all relevant parties in accordance with Schedule 7 of the Commons
Registration (England) Regulations 2014 ("the 2014 Regulations"). Anyone wishing to object to the Application had until 17th March 2017 to do so in writing.

4.11 No objections were received.

4.12 The Law:

4.13 Part 1 of the 2006 Act was implemented in Cumbria on 15th December 2014 and allows applications to be made to amend the Register of Common Land and Town or Village Greens.

4.14 The Application is made under Section 19 (2) (a) of the 2006 Act which states:

“19 Correction

(1) A commons registration authority may amend its register of common land and town or village greens for any purpose referred to in subsection (2).

(2) those purposes are –
(a) correcting a mistake made by the commons registration authority in making or amending an entry in the register.”

The application of the law to the facts and evidence of the Application:

4.15 The application complies with the formal requirements as to form and content as stipulated in the 2014 Regulations.

4.16 The Officer has considered the 1969 Application, the legal register maps, and other supporting documents and agrees with the Applicants’ assertion that the Application Land was included within the boundary of VG104 by virtue of a mistake made by the registration authority.

4.17 Section 19 (5) states:

“A mistake in the register may not be corrected in this section if the authority considers that, by reason of reliance reasonably placed on the register by any person or for any other reason, it would in all the circumstances be unfair to do so.”

4.18 The Officer has established that there are no rights of common registered on VG104.

4.19 Notwithstanding the matters set out at 4.11 above, no objections or comments have been made to the Registration Authority from anyone with a legal interest in the land.

4.20 In view of the above, the Officer does not consider it to be unfair to any person to make the requested correction to the register.
4.21 The Officer, therefore, concludes that on the balance of probabilities the Application Land is not part of VG104 and should not have been recorded on the register map.

5.0 Legal Implications

5.1 The Council has a statutory duty to keep a register of Common Land and since the implementation of Part 1 of the 2006 Act, has the power to amend the register. The Council’s Constitution at Part 2G 2.1) f) i) delegates this responsibility to the Development Control and Regulation Committee.

5.2 In considering the Application, Members must consider all of the evidence available to them, and must be satisfied that the evidence shows that each aspect of the statutory conditions set out at Section 19 (2) (a) of the 2006 Act have been met. The burden of proof in this regard is firmly upon the Applicant to provide the required evidence. The standard of proof to be applied is the usual civil standard “on the balance of probabilities”, i.e. it must be more likely than not.

5.3 The role of this Committee is to reach its own determination on the matters of fact and law arising as a result of the Application. It is for Members to determine the Application fairly, putting aside any considerations of the desirability of the land being registered as Common Land or being put to other use.

5.4 Although the findings of the Officer Recommendations are for the Committee to proceed with determination and acceptance of the Application, the Committee is not bound to follow the Recommendation; providing that in reaching its decision it applies the correct legal principles and duly considers the evidence. Therefore Members are free to accept or reject any of the Recommendations in the report. If the members reject the Officer findings and decide either not to determine the Application or to reject the Application and keep the Application Land registered as Village Green, the Committee should set out their reasons at the meeting.

5.5 There is no right of appeal against a Committee decision. The route for any challenges would be via judicial review in the High Court, where the issue would be whether the Committee had misdirected itself in law. Should a judicial review application be successful, the Council would be obliged to re-determine the Application, a successful judicial review application would not of itself determine that the Application Land was or was not Village Green.

5.6 There are no further legal considerations, all other legal considerations, issues and implications have been addressed within the detail of the report.

6.0 Options

6.1 The Committee may accept or reject the Recommendation in whole or in part.
6.2 If the Recommendation is accepted the Registration Authority will give effect to the determination by amending register unit VG104 and the register map to confirm the removal of the Application Land from the register in accordance with the 2014 Regulations.

6.3 If the Recommendation is rejected the Application Land will remain registered as village green.

6.4 Members should note that the decision of the Committee in relation to an application to correct the common land or village green register is a legal decision and is not a matter of policy or discretion.

7.0 Conclusion

7.1 The Officer is of the opinion that the Application has been validly made. The evidence submitted by the Applicants and the Officer’s own research support the claim that an error was made by the registration authority. Under Section 19 (2) (a) of the 2006 Act this error can be corrected.

7.2 No objections were received and the Officer is of the opinion that de-registration of the Application Land as village green will not be unfair to any person.

7.3 The Officer recommends that this Committee resolves that the Register of Village Greens be corrected and the Application Land be removed from register unit VG104.

Jason Weatherill
Commons Officer
10th May 2017

APPENDICES

Appendix 1 - Map of the Application Land
Appendix 2 – Application CA10/26
Appendix 3 – 1969 Application
Appendix 4 – Commons Commissioner’s Decision
Appendix 5 – First Edition Register map extract for VG104
Appendix 6 – Second Edition Register map extract for VG104
Appendix 7 – Map of Application Land at 1:1500 scale
IMPLICATIONS

Staffing: None
Financial: There would be cost implications in the event of an application for judicial review, however the Council is the registration authority and therefore has a statutory duty to decide applications.
Property: None
Electoral Division(s): Gosforth
Human Rights: The Council as registration authority has to make a decision in accordance with the law and in particular with the provisions of the 2006 Act, given these legal criteria a decision must reflect the legislation despite any other rights of individuals.

PREVIOUS RELEVANT COUNCIL OR EXECUTIVE DECISIONS

No previous relevant decisions

CONSIDERATION BY OVERVIEW AND SCRUTINY

Not considered by Overview and Scrutiny

BACKGROUND PAPERS

Commons Act 2006
Commons Registration (England) Regulations 2014
Common Land: Guidance to Commons Registration Authorities and Applicants 2015.
CA10/26 - Application to correct the register
VG104 School Green, Netherwasdale
Commons Act 2006: section 19
Application to correct the register

This section is for office use only

Official stamp

COMMONS ACT 2006
CUMBRIA COUNTY COUNCIL
COMMONS REGISTRATION AUTHORITY

17 JAN 2017

Application number

CA10/26

Applicants are advised to read ‘Part 1 of the Commons Act 2006: Guidance to applicants’ and to note:

• All applicants should complete boxes 1–8.
• Any person can apply under section 19 of the Commons Act 2006.
• You will be required to pay a fee unless your application is to correct a mistake made by the registration authority (section 19(2)(a)) or to remove a duplicate entry (section 19(2)(c)). Ask the registration authority for details. You would have to pay a separate fee should your application be referred to the Planning Inspectorate, unless it is to correct a mistake made by the authority or to remove a duplicate entry.

Note 1

Insert name of commons registration authority.

1. Commons Registration Authority

To the:
Tick one of the following boxes to confirm that you have:
enclosed the appropriate fee for this application: □
or
applied for a purpose in section 19(2)(a) or (c), so no fee is enclosed: □
### 2. Name and address of the applicant

**Name:** JULIUS PIERS MANOuell, MARTHENAN DAVID MANOuell, SIR JOHN MANOuell & LADY RENNA MANOuell  
**Postal address:** C/O CHURCH STILE FARM  
WASDALE  
SEASCALE  
CUMBRIA  
**Postcode:** CA20 1ET  
**Telephone number:** 01946 726 026  
**Fax number:**  
**E-mail address:**  

### 3. Name and address of representative, if any

**Name:** JOHN MYERS  
**Firm:** CLEETHORPE, STURTON & GILLIBRAND LLP.  
**Postal address:**  
16 CASTLE PARK  
LANCASTER  
**Postcode:** LA1 1YG  
**Telephone number:** 01524 846 846  
**Fax number:** 01524 382247  
**E-mail address:** john.myers@asog.co.uk
4. Basis of application for registration and qualifying criteria

Specify the register unit number to which this application relates:

| REGISTER UNIT V.G. 104, A COPY OF WHICH IS ATTACHED |

Specify the rights number to which this application relates (if relevant):

| ENTRIES 1 & 2 OF THE ABOVE MENTIONED REGISTER UNIT NUMBER |

Tick one of the following boxes to indicate the purpose (described in section 19(2)) of your application. Are you applying to:

- Correct a mistake made by the commons registration authority: ✓
- Correct any other eligible mistake: □
- Remove a duplicate entry from the register: □
- Update the details of any name or address referred to in an entry: □
- Record accretion or diluvion: □

5. Describe the purpose for applying to correct the register and the amendment sought

WE HAVE ATTACHED A COPY OF THE APPLICATION FOR THE REGISTRATION OF LAND AS A TOWN OR VILLAGE GREEN NUMBERED 1632 AND DATED 14/10/1969. THE PLAN ATTACHED SHOWS THE LAND TO BE REGISTERED COLOURED GREEN. WE ATTACH A PLAN PRODUCED BY MCGHIN & TULLETT SHOWING COLOURED YELLOW THE EXTENT OF LAND REGISTERED AS VILLAGE GREEN THAT APPEARS TO HAVE BEEN REGISTERED IN ERROR.
Note 6
List all supporting consents, documents and maps accompanying the application, including evidence of the mistake in the register. There is no need to submit copies of documents issued by the registration authority or to which it was a party but they should still be listed. Use a separate sheet if necessary.

6. Supporting documentation

The above mentioned application number 1632 and the scale identification plan produced by Hough Tullett together with a copy of Register of Town & Village Greens No. VG 104.

Note 7
List any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

7. Any other information relating to the application

The applicant hereby applies to have the land shown coloured yellow and edged in green on the Hough Tullett plan declassified as Village Green.
**Note 8**
The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or an unincorporated association.

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**REMINDER TO APPLICANT**

You are responsible for telling the truth in presenting the application and accompanying evidence. You may commit a criminal offence if you deliberately provide misleading or untrue evidence and if you do so you may be prosecuted.

You are advised to keep a copy of the application and all associated documentation.

**Data Protection Act 1998**

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the commons registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

A copy of this form and any accompanying documents may be disclosed upon receipt of a request for information under the Environmental Information Regulations 2004 or the Freedom of Information Act 2000.
COMMOMS REGISTRATION ACT 1968

Application for the registration of land as a town or village green

IMPORTANT NOTICE: Before filling in this form, read carefully the notes on the back. An incorrectly completed application form may be rejected.

To the CUMBERLAND COUNTY COUNCIL

Application is hereby made for the registration as a town or village green of the land described below.

Name and address of the applicant.

NETHERNASDALE PARISH MEETING

J S WHINSEY

NETHERNASDALE PARSONAGE

SEASCHEELE

CUMBERLAND

Name and address of solicitor, if any.

Particulars of the land to be registered, i.e. the land claimed to be a town or village green.

Name by which usually known: SCHOOL GREEN

Locality: NETHERNASDALE

Delete reference to plan where none is submitted. A plan must be used except as mentioned in Note 2.
Part 4.

(See Note 6.)

For applications submitted after 30th June, 1968 (to be disregarded in other cases).

Does the prescribed fee of £5 accompany this application? If not, state whether this is for reason (c) or (b) mentioned in Note 6, and give the appropriate particulars required by that note.

*Signature of applicant or of person on applicant's behalf*

[Signature]

Date

14/1/69
Statutory Declaration in Support

To be made by the applicant personally, unless the applicant is a body corporate or unincorporate, in which case the declaration must be made by the person who has signed the application. Inapplicable wording should be deleted throughout.

Insert full name: 

I, JOHN SAMUEL WHINEREY

solemnly and sincerely declare as follows:

1. I am the person who has made the foregoing application.

2. I am Chairman to the applicant and am duly authorised by the applicant to make the foregoing application.

3. I have read Note 2 on the back of the application form and believe that the land described in the application is a town or village green.

4. The plan now produced and shown to me marked "D" is the plan referred to in the application.

And I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the Statutory Declarations Act 1833.

Declared by the said JOHN SAMUEL WHINEREY

at WHINING HOUSE, Bootle in the County of CUMBERLAND

this 14th day of October 1969

Before me

Signature

Address

Occupation

Reminder to Officer taking declaration:

Please initial all alterations and mark any plans as an exhibit.
Notes

1. Registration authorities

The applicant should take care to submit his application to the correct registration authority. This depends on the situation of the land. In Greater London is the Greater London Council; for land in a county borough, it is the county council; for land in a county and for land in Greater London, it is the Greater London Council.

In the case of land which is partly in the area of one registration authority and partly in that of another, the authorities may by agreement provide for one of them to be the registration authority for the whole of the land. Public interest is given of such agreements, but an applicant concerned with land lying close to the boundary of an administrative area, or partly in one area and partly in another, should, if in doubt, enquire whether an agreement has been made and, if so, which authority is responsible for that land.

2. Meaning of "town or village green"

"Town or village green" is defined in the Commons Registration Act 1965 as land which has been allotted by or under any Act for the exercise or recreation of the inhabitants of any locality or on which the inhabitants of any locality have a customary right to indulge in lawful sports and pastimes as of right for not less than twenty years.

3. Land descriptions

Except where the land has already been registered under the Act (as to which see below and Note 5), the particulars asked for at part 3 of the form must be given, and a plan must accompany the application. The particulars in part 3 are necessary to enable the registration authority to decide whether the land is concerned, but the main description of the land will be by means of the plan. This must be so scaled as to be visible on a permanent medium and be on a scale of not less, or not substantially less, than six inches to one mile, or, if the land is to be described by means of distinctive colouring (a coloured edge inside the boundary will usually suffice), and it must be marked as an exhibit to the statutory declaration (see Note 4).

Where the land has already been registered and comprises several title in the name of the registered proprietor, a plan is unnecessary the register and register unit number(s) are quoted (see Note 5). If the application concerns only part of the land comprised in a register unit, however, it will not always be possible to dispense with a plan. A plan will not be needed if the land can be described by reference to some physical feature such as a road, a river or railway, so that the description might, for example, read "The land in register unit No. ..., lying to the south of the road from A to B". Where this method is not practicable the land must be described by a plan prepared as mentioned above. In cases where the procedure of reference to an existing register unit is adopted, part 3 of the form should be adapted accordingly, and where no plan is submitted inappropriate reference to a plan should be deleted.

4. Statutory declaration

The statutory declaration must be made before a justice of the peace, commissioner for oaths or notary public. Any plan referred to in the statutory declaration must be marked as an exhibit and signed by the officer taking the declaration (incorporating is insufficient). A plan is marked by writing on the face in list an identifying symbol such as the letter "A". On the back of the plan should appear these words:

This is the exhibit marked "A" referred to in the statutory declaration of (name of declarant) made this (date) 19 (before me, (Signature and qualification)"

If there is more than one plan care should be taken to choose a different identifying letter for each.

5. Previous registration; inspection and search of registers

It is possible that the land has already been registered under the Act. If it has been registered as a town or village green it will not be registered as such again pursuant to a further application, but the further application will be noted on the register. This will entitle the applicant to notice of any objection to the registration. If the land has been registered as common land, registration as a town or village green will take effect as an objection to the earlier registration as common land and the latter will take effect as an objection to the later registration as a town or village green. It is also possible that the land is exempt from registration; the registration provisions of the Act do not apply to the New Forest, Exmoor Forest or the Forest of Dean, nor to any land exempted by order under section 11; To ascertain whether land has been registered under the Act, or is exempt, anyone may inspect the registers at the office of the registration authority, or the copies of register entries affecting land in their area held by other local authorities including parish councils. Alternatively, an official certificate of search may be obtained from the registration authority. A requisition for an official search must be made in writing on C.R. Form No. 3, a separate requisition being required for each register. If the land is registered, the certificate will reveal the register unit number(s) and whether any rights of common and claims to ownership are registered. If the land is exempt from registration, the certificate will say so, and it will not be possible to register it under the Act.

6. Submission of application; fees

The application must reach the registration authority properly completed during one of the registration periods allowed under the Act. The first registration period begins on 2nd January, 1967 and ends on 30th June, 1968, and the second begins on 1st July, 1968 and ends on 2nd January, 1970. There is no charge for applications made during the first registration period, but every application made during the second registration period must be accompanied by a fee of £5, unless—

(a) during the first registration period the applicant gave the registration authority notice in C.R. Form No. 5 of his intention to make the application, or

(b) the land did not become registrable as a town or village green until after 30th April, 1968.

If (a) applies, the applicant should quote in part 4 of the application the number on the acknowledgment from the registration authority. If (b) applies, he should state in part 4 when and by what means the land became a town or village green.

7. Action by registration authority

The registration authority will on receipt of the application and an acknowledgment. If this is not received within 10 days ..., applicant should communicate with the authority. Later the applicant will be informed whether the application has been accepted or rejected. If it is accepted, then—

(a) if the land is not already registered as a town or village green, it will be provisionally registered as such, or

(b) if it is already registered as a town or village green, the application will be noted on the register.

The application will in either case be informed, and will in due course be notified of any objection to the registration. (As to objections, see the official explanatory booklet "Common Land", available free from local authorities.)

8. False statements; groundless applications

The making of a false statement to procure registration may render the maker liable to prosecution. Moreover, a registration which is objected to will, unless the registration authority permits it to be cancelled, or the objection is withdrawn, be referred to a Commons Commissioner. If, at the hearing before the Commissioner, the registration cannot be substantiated, it will be removed from the register, and the applicant may be ordered to pay the costs of the objector.
COMMONS REGISTRATION ACT 1965

Reference No. 262/D/833-234

In the Matter of School Green
Nether Wasdale

DECISION

This dispute relates to the registration at Entry No. 1 in the Land Section of Register Unit No. WG 104 in the Register of Town or Village Greens maintained by the former Cumberland County Council and is occasioned by the conflicting registration at Entry No. 1 in the Land Section of Register Unit No. CL 466 in the Register of Common Land maintained by the Council.

I held a hearing for the purpose of inquiring into the dispute at Whitehaven on 2 March 1982. The hearing was attended by Mrs A Temple, Chairman of Netherwasdale Parish Meeting. Mr Anthony Foster said that he had been born in Wasdale in 1935 and had lived there all his life. A May Day festival had been held on the Village Green for many years according to local tradition. A maypole had been built in the last century to commemorate Queen Victoria's Jubilee. Sports and games for children and adults on the day of the Festival and as part of it. The local children played football and other games on the Village Green and still did so. There was a fountain on the green used as a public water supply.

Mr Richard Scott Naylor, who was born in 1927, had also lived all his life in Wasdale. He confirmed Mr Foster's evidence and added that until 1934 when the Village School was closed the green had been the playground for all the school.

I was satisfied on this evidence that the application for registration as a village green should succeed.

For these reasons I confirm the registration.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 15th day of March 1982

[Signature]

Commons Commissioners
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1.0 EXECUTIVE SUMMARY

1.1 An application has been received to add a section of public footpath at Sunstones, Broughton Moor in the Parish of Broughton Moor to the County Council’s Definitive Map and Statement of Public Rights of Way. The plan at Appendix A shows the path to be added.

1.2 The purpose of this report is to present the Committee with the evidence regarding the use of the route, and for a decision to be made whether to proceed with the next stage of the process by making a legal order.

2.0 POLICY POSITION, BUDGETARY AND EQUALITY IMPLICATIONS, AND LINKS TO CORPORATE STRATEGY

2.1 The relevant corporate theme is “To provide a safe and well managed highway network, secure infrastructure improvements and support local economic growth”.

2.2 This matter is a decision making process of a quasi-judicial nature. There should be no policy or political consideration given and any potential financial implications should be ignored. It is merely a matter of weighing the strength of evidence and if that evidence is sufficient to meet the burden of proof, then the legal framework must be applied to the evidence.
3.0 **RECOMMENDATION**

3.1 *The Committee authorises the Corporate Director, Resources and Transformation to make an order under section 53(3)(c)(i) of the Wildlife and Countryside Act 1981, the effect of which, if confirmed, would be to add a section of public footpath at Sunstones Garage, Broughton Moor in the parish of Broughton Moor as shown A-B-C-D-E on the plan at Appendix A to the County Council’s Definitive Map and Statement of Public Rights of Way.*

3.2 *If there are no objections to the made order the Committee authorise the Corporate Director, Resources and Transformation to confirm the order.*

4.0 **BACKGROUND**

4.1 An application was received in November 2016 to add a section of public footpath as shown A-B-C-D-E on the plan at Appendix A to the County Council’s Definitive Map and Statement of Public Rights of Way.

4.2 The application is accompanied by 15 rights of way evidence forms from local people claiming to have regularly used the route on a daily basis on foot for a period of years ranging from 15 to 60 years. (A summary of the user evidence is attached as Appendix B).

4.3 The user evidence as shown in Appendix B raises a presumption of dedication by the landowners concerned of a public right of way on foot having taken place pursuant to Section 31 Highways Act 1980.

**DETAIL**

4.4 The path, subject of this application, is situated off Seaton Road alongside the former Sunstones Garage, Broughton Moor in the parish of Broughton Moor and forms part of the access drive up the property Sunstones before leading off to the left into a wooded area.

4.5 Local people claim to have used the route as of right, without challenge and without interruption believing it to be the definitive route of public footpath no 219014 for many years until 2016 when a new landowner installed a gate and posted a notice preventing access.

4.6 It would appear that the very nearby path 219014 was informally moved in 1969 to the location of the claimed path when planning permission was granted for a garage and petrol filling station to be developed over path 219014.
CONSULTATIONS

4.7 County Councillor Keith Little the local councillor for the area has been consulted but no response has been received.

4.8 The statutory undertakers have been consulted. Further, the usual prescribed organisations have been consulted:

- Allerdale Borough Council – no response received
- Ramblers – no response received
- Byways and Bridleways Association – no response received
- Open Spaces Society – no response received
- Local Ramblers Representative – no response received
- Cyclists' Touring Club – no response received
- British Driving Society – no response received
- Auto Cycle Union – no response received
- Broughton Moor Parish Council – no response received

Cumbria and Lakes Local Access Forum – CALLAF would have no grounds to object and would support the application which would appear to be a more appropriate route than the current obstructed definitive route.

4.9 One of the affected landowners has submitted an objection to the claimed path on the basis that there is no public right of way along the access drive to the property Sunstones.

5.0 LEGAL POSITION

5.1 The County Council has a statutory duty to keep the Definitive Map and Statement of Rights of Way under continuous review (section 53 of the Wildlife & Countryside Act 1981).

5.2 If evidence is discovered by the authority that a right of way subsists or is reasonably alleged to subsist which is not shown on the map and statement, the County Council shall make an order modifying the map and statement adding the claimed right of way to the map.

5.3 An application for a modification order involves a two-stage process whereby the County Council makes the order and then, if appropriate, confirms the order if there are no outstanding objections to it or, where there are such objections, the order can only be confirmed by the Secretary of State.

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5.4 The County Council has a duty to investigate an application, to consider all relevant evidence available to it, and then to reach a conclusion. It must, therefore, evaluate the application. All the evidence must be weighed in the balance and any relevant legal principles applied to it.

5.5 The application as submitted is made pursuant to section 53(3)(c)(i) Wildlife and Countryside Act 1981 on the ground that there has been a discovery by the County Council “…..of evidence which (when considered with all other relevant evidence available to them) shows that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path.”

5.6 In deciding whether a right of way subsists, it is necessary for the evidence to establish that, on a balance of probabilities, the right of way subsists. In deciding whether it is reasonable to allege that a right of way subsists, it is merely necessary for it to be shown that a reasonable person, having considered all the relevant available evidence, could reasonably allege that a right of way subsists. Therefore, the evidence necessary to establish that a right of way does in fact subsist is greater than that which is necessary to establish that a right of way is reasonably alleged to subsist.

5.7 At the confirmation stage of an order, the only test to be applied is the higher one, namely whether a right of way has been shown to subsist on the balance of probabilities.

5.8 Section 31 of the Highways Act 1980 states that where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention to dedicate.

5.9 Under paragraph 2.1 (g)(vii) Part 2 G of the County Council’s Constitution, the Committee has the duty to keep a Definitive Map and Statement under review.

6.0 **OPTIONS**

6.1 The Committee may accept or reject the recommendation in whole or in part.

6.2 If the recommendation is accepted any objector will have an opportunity on advertising of the Order to submit a further objection whereupon the matter will be referred to the Secretary of State for decision (probably after a Public Inquiry or other hearing).

6.3 If the recommendation is rejected the applicants have the option of appealing against the decision to the Planning Inspectorate.
7.0 ASSESSMENT

7.1 In order to negate an application a landowner or objector needs to provide evidence that the claimed route has not been walked. For example that previous landowners stopped the public using the routes by putting up notices or turning people away or maybe locked gates or obstructions were present which meant that the public could not physically walk along them as claimed. No evidence has been submitted by the current landowner objecting to the application to show that the public have been prevented from using this route or that they have been informed that this route is not a public right of way until recently when he purchased the property and erected a gate, posted notices on it advising members of the public there is no right of way and blocking the access to the footpath where it leaves his property (subsequently cleared). This is not considered sufficient to demonstrate that the claimed route has not been walked.

7.2 The application is accompanied by 15 rights of way evidence forms from local people claiming to have regularly used the route on a daily basis on foot for a period of years ranging from 15 to 60 years. It is considered that this evidence is sufficient to demonstrate the route has been used and support the making of an order.

8.0 CONCLUSION

8.1 Based upon the evidence that has so far come forward, officers are of the view a public right of way over this route is reasonably alleged to subsist, and the evidence brought forward to rebut the claim is insufficient and the recommendation to make an Order should be approved.

Stuart Perigo
Interim Manager of Development Control and Countryside Management, Regulatory Services

June 2017

APPENDICES

A Plan showing proposed path to be added
B Analysis of User Evidence

IMPLICATIONS

Staffing: Nil
Financial: Nil
Electoral Division: Maryport South – Keith Little

PREVIOUS RELEVANT COUNCIL OR EXECUTIVE DECISIONS [including Local Committees]

No previous relevant decisions

CONSIDERATION BY OVERVIEW AND SCRUTINY

Not considered by Overview and Scrutiny.

BACKGROUND PAPERS

No background papers

Contact: Sandra Pattinson, Countryside Access Officer - Tel: 07920711254
E-mail: sandra.pattinson@cumbria.gov.uk
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DEVELOPMENT CONTROL AND REGULATION COMMITTEE
18 July 2017
A report by the Corporate Director of Economy and Highways

Application No: 1/16/9006

District: Carlisle

Applicant: Scotts Company (UK) Ltd
Salisbury House
Catteshall Road

Parish: Kirkandrews-On-Esk

Received: 24 February 2016

PROPOSAL: Periodic review of minerals permission

LOCATION: Solway Moss Peat Works, Mill Hill, Gretna, Dumfries & Galloway, DG16 5HU
1.0 RECOMMENDATION

1.1 That after first taking into consideration the environmental information, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations, conditions be imposed as set out in Appendix 1 to this report.

2.0 LEGISLATIVE BACKGROUND INFORMATION

2.1 Section 96 and Schedules 13 and 14 of the Environment Act 1995 provide for the initial review and updating of old mining permissions granted between 30 June 1948 and 22 February 1982 and the periodic review of all mineral planning permissions thereafter as a means of protecting the environment and amenity, and to provide equal treatment between sites and mineral operators.

2.2 Initially the County Council as Mineral Planning Authority (MPA) was required to prepare a list of all relevant mineral permissions and then divide the sites between those permitted between 1948 and 1969 (Phase 1 sites) and those permitted between 1969 and 1982 (Phase 2 sites). Applications for the determination of new conditions for active Phase 1 sites had to be submitted within a period of time set by the MPA, which was between 1 and 3 years of the date of publication of the MPA’s list, and within the following 3 years for active Phase 2 sites. Periodic Reviews should take place every 15 years from the date of either a previous review, or if no review has taken place, from the date of the latest mineral permission relating to the site. The purpose of periodic reviews is to ensure that the conditions attached to mineral permissions do not become outdated with the passage of time.

2.3 The MPA can either approve the applicant’s proposed schedule of conditions as submitted or impose their own set of conditions. The conditions imposed by the MPA should meet all the tests of planning conditions and should not restrict working rights nor prejudice adversely, or to an unreasonable degree, the economic viability of operating the site or asset value of the site. If the application is determined on terms different from those set out in the application, the applicant has a right of appeal to the Secretary of State and if his working rights are restricted he may be entitled to compensation. It is not open to the MPA to refuse a valid application.

3.0 THE PROPOSAL

3.1 Under the terms of the Environment Act 1995, the mineral permissions relating to the site are subject to periodic review. An application has been made as part of the Review of Mineral Working Permissions (ROMP) process to update the current planning permission conditions. The application includes a schedule of 16 proposed planning conditions controlling time limits; specifying approved documents; restricting depth of peat working; working areas; height of peat stocking areas; transportation of peat off site; safeguarding of watercourses and controls on drainage; noise; dust; safeguarding archaeology; site restoration, and aftercare.

3.2 The application is accompanied by an Environmental Statement (ES). The ES provides a site description including details of the site location, geology, soils and climate, flora and fauna, drainage and the historic environment; a description of the continuing development; outlines of the main alternatives; aspects of the environment likely to be affected; a description of the likely effects on the environment including on landscape, drainage, fauna and flora, traffic, historic
environment and dust; a description of measures to prevent, reduce or offset effects on the environment; and restoration principles. Further information was submitted in support of the ES relating to the drainage of the site, direction of flows, positioning of settling pools and outfall structures and water courses they drain into and sampling results to identify suspended solids discharging from each outfall.

4.0 DESCRIPTION AND LOCATION OF THE SITE

4.1 Solway Moss Peat Works is a commercial peat extraction site located to the west of Longtown and to the north east of junction 45 of the M6 motorway in a flat landscape. The site is surrounded by a combination of woodland, agricultural land beyond which to the east is MOD land, and the River Sark. Access is taken from Mill Hill the B7076 via the A6071 which similarly provides access to scattered residential properties. To the south of the site access on the opposite side of the road is the peat processing works and the closest residential property which is currently operating as kennels and cattery business. To the south is the A6071 beyond which is MOD Longtown camp.

4.2 Solway Moss is classified as a lowland raised mire (Inventory of Lowland Raised Bogs (Lindsay 1996) consisting of Sphagnum and Cotton grass. The peat workings extend to approximately 364ha of which some 109.67ha is no longer worked; there remains 247.05ha still to be worked. Peat will continue to be extracted using the existing method of surface milling. The peat surface is devoid of vegetation and comprises a network of open drainage ditches approximately 20m apart delineating a system of long parallel strips with low gradients for peat milling with the appearance of ploughed fields.

4.3 The moss is in close proximity to the Upper Solway SAC and the Upper Solway Flats and Marshes SPA and the Upper Solway Flats and Marshes SSSI. Part of the Solway Moss County Wildlife Site is located within the extraction area.

5.0 PLANNING HISTORY

5.1 The site has operated since 1960. The substantive permission for peat extraction was granted in the early 1980’s (ref 1/81/0208). The site was subject to periodic review and an application for the determination of new conditions was granted in 2001 (ref 1/99/9020). The site is currently being worked in accordance with these conditions.

5.2 Planning permission for the construction of 9 wind turbines over an area of 7.28ha of the site, known as Beck Burn Windfarm, was granted by Carlisle City Council in 2013 (ref 13/0866). The windfarm includes the construction of a roadway and wind turbine plinths and the excavation and removal of peat to a depth of 2m to facilitate the development. The planning permission has been implemented.

2.4 PLANNING POLICY

6.2 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.
2.3 Local Planning Authorities are required to determine planning applications in accordance with the development plan (i.e. planning policy) unless material considerations indicate otherwise. The relevant development plan for this proposal comprises:


2.5 The key policies relevant to the determination of this planning application are considered to be:

- Policy CS 1 - Sustainable Location and Design
- Policy CS 2 - Economic Benefit
- Policy CS 3 - Community Benefits
- Policy CS 4 - Environmental Assets
- Policy CS 5 - Afteruse and Restoration
- Policy CS 6 - Planning Obligations
- Policy DC1 - Traffic and Transport
- Policy DC 2 - General Criteria
- Policy DC 3 - Cumulative Environmental Impacts
- Policy DC 8 - Applications for New Conditions
- Policy DC 9 - Minerals Safeguarding
- Policy DC 10 - Biodiversity and Geodiversity
- Policy DC 11 - Historic Environment
- Policy DC 12 - Landscape
- Policy DC 13 - Flood Risk
- Policy DC 14 - The Water Environment
- Policy DC 15 - Protection of Soil Resources
- Policy DC 16 - Afteruse and Restoration
- Policy DC 17 - Planning Obligations

2.6 The emerging Cumbria Minerals and Waste Local Plan 2015-2030 was submitted to the Secretary of State for examination by an independent Inspector on 9 September 2016. Hearing sessions for the examination were held between on 29 November and 16 December 2016. Following this, a Table of Main Modifications to the Plan was prepared and consulted on between 27 March and 5 May 2017. The Inspector is now in the process of finalising her Report on changes necessary to ensure that the Local Plan is sound and legally compliant. As the emerging plan progresses greater weight can be attached to it in the decision making process.

2.7 The Carlisle District Local Plan 2001-2016 (CDLP 2001-2016) September 2008 (Saved Policies thereof) is the currently adopted local plan for Carlisle District.

2.8 The new emerging Carlisle District Local Plan 2015-2030 was examined by the Planning Inspectorate and found to be sound subject to proposed modifications being made in a report issued on 28 July 2016. The Plan was formally adopted on 8 November 2016. The key policies of relevance in this plan are as follows:

2.9 The National Planning Policy Framework (NPPF) which was published on 27 March 2012 and the national online Planning Practice Guidance (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF and/or PPG are considered to be relevant to the determination of this
application. Paragraphs 142 – 149 of the NPPF relate to mineral extraction. Whilst paragraph 144 states that planning permission should not be granted for new or extended peat sites and that restoration and aftercare of minerals sites should be achieved at the earliest opportunity through the application of appropriate conditions, this application is for a review of planning conditions for which no restrictions on operations or time periods can be imposed without affecting the working rights of the operator:

- Paragraphs 6-10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Delivering Sustainable Development:
  - Section 1 - Building a strong, competitive economy
  - Section 3 - Supporting a prosperous rural economy
  - Section 4 - Promoting sustainable transport
  - Section 7 - Requiring good design
  - Section 8 - Promoting healthy communities
  - Section 10 - Meeting the challenge of climate change, flooding and coastal change;
  - Section 11 - Conserving and enhancing the natural environment.
  - Section 12 - Conserving and enhancing the historic environment
  - Section 13 - Facilitating the sustainable use of minerals

3.0 CONSULTATIONS AND REPRESENTATIONS

3.1 Carlisle City Council (Planning): Considers the need for peat and the availability of non-peat alternatives; the effect of the proposal on climate change; the nature conservation status of the site; transport impacts; the effects upon the living conditions of neighbouring residents, and the planning balance (the economic benefits versus the unsustainable use of peat in horticulture and the consequences of peat extraction on climate change and biodiversity) should be assessed.

3.2 Carlisle City Council (Environmental Health): No objection.

3.3 Kirkandrews-On-Esk Parish Council: Restoration should be progressive so the wildlife and vegetation can start to return. The restored areas should be fenced off to prevent wildlife from straying onto the areas still being worked.

3.4 CCC Highway Authority and Lead Local Flood Authority: Considers that the proposed schedule of conditions meets their requirements and confirm that they have no further comments to make.

3.5 Highways England: No objection.

3.6 Natural England: Initially considered the EIA not to contain sufficient information to determine whether the development is likely to have a significant effect on the European sites in the vicinity, these being the Upper Solway SAC and the Upper Solway Flats and Marshes SPA or to assess whether the application is likely to damage or destroy the interest features for which Upper Solway Flats and Marshes SSSI has been notified. Following the submission of additional information no objection is raised subject to appropriate mitigation being secured; restrictions on the levels of suspended solids from all 6 discharge points should be retained and that the levels are acceptable for the purposes of any discharge consent; and there is an early restoration plan.
3.7 The Environment Agency: Notes that there is no proposed change to the existing site operations and that the geological map indicates that the site is underlain by Permian Sandstone at the rock head, which is covered by boulder clay under the layer of peat. Their records indicate that there is an existing abstraction borehole in close proximity to the north east boundary of the site, but that the abstraction is from the deeper solid sandstone. It is therefore considered unlikely that an existing operation would have an impact upon groundwater users in the site’s vicinity.

3.8 The RSPB: Has serious concerns over the principle of peat extraction which is considered to be unsustainable; contrary to the achievement of national climate change targets, and contrary to Government planning policies and the County Council’s Draft Minerals and Waste Local Plan. The RSPB does, however, note the commitment in the Environmental Statement to leave ‘an average minimum depth of 0.5 metres over the underlying mineral soil...at the end of extraction’ which is vital to achieve restoration aspirations, and would like to see the applicant follow through on their proposal to submit an interim restoration scheme by 22 February 2019 and restore exhausted areas while the site is still operational, if the hydrology allows for a phased restoration. They believe the key objective should be restoration of the whole hydrological unit with restoration to lowland raised bog and fen habitat.

3.9 Network Rail: No comments.

3.10 The Coal Authority: The site is located within the area defined as Development Low Risk Area. An informative should be attached to any decision notice advising of the Authority’s standing advice.

3.11 CCC Ecology: Considers the information provided does not enable the County Council to conclude that there will be no likely significant effect upon the Solway Firth SAC. In the absence of the necessary information from the applicant, the County Council is unable to satisfy its requirements under Paragraph 61 of the Conservation of Habitat and Species Regulations 2010, to undertake a Habitat Regulations Assessment. The applicant must provide further information to determine that quality of discharges from the site potentially entering the SAC and other nature conservation sites that lie downstream of the site. This should be supplemented by information on existing and any proposed mitigation measures to ensure that fine particulate peat is not causing any potential negative impacts upon these designations.

3.12 The badger report should be reviewed and updated to reflect which of the badger protection options will be implemented at the site, and confirm that annual sett monitoring will be undertaken.

3.13 A Habitats Regulations Assessment has been carried out. The Assessment concludes that the ongoing peat working at Solway Moss will not, either alone or in combination with other plans and projects, have an adverse effect upon the interest features of the Solway Firth SAC or the Upper Solway Flats and Marshes SPA and the tests required for the meeting of the favourable condition of each designated site providing there is an ongoing commitment to management, monitoring and reporting of discharges at each of the 6 outfall structures, that remedial action should take place to the functioning of the silt control and outfall structures in a timely fashion if 300mg/l suspended solid discharge levels are exceeded. For each of the Conservation Objectives, it is concluded that no detrimental impact upon the site achieving these Objectives would arise from the
ongoing peat extraction operations at the Moss and that the integrity of Solway Firth SAC and the Upper Solway Flats and Marshes SPA would be maintained.

3.14 CCC Archaeology: Recommend a condition requiring a scheme of archaeological work to be undertaken by the operator to record any assets disturbed by peat extraction, and that the work should commence within 6 months of any new consent and comprise:

- A programme of palaeo-environmental assessment and analysis of peat deposits that contain a highly significant resource for past environmental conditions, and
- A periodic inspection of exposed section faces of peat to identify and record any archaeological assets.

3.15 The application has been advertised in the press, notices posted on the land and local properties and the local county councillor notified.

3.16 Two representations have been received expressing the following summarised concerns:

- The Moss used to be a thriving High Bog which supported many species of wildlife, flora and fauna. Drainage ditches (4 to 5ft deep) once flowed east to Black Bank, however, in recent years, the flow was reversed to run west into the River Sark. The ditches (now 30ft deep) now drain off the moss at such a high rate and can flush great volumes of water into the River. There are settling ponds supposedly to catch the fine peat silt from entering the River, but these look to be in disrepair and not fit for purpose, and they do not stop the fine peat filtering straight into the river.
- Over the last 20 years there has been a very steep decline in the number of wading birds. One reason for this has been the complete desolation of habitat, heather and rushes which are very sparse. Deep ditches have been cut, making it difficult for oyster catchers, peewits, grouse and curlew to survive and raise their young.
- Was the removal of the sand bank adjacent to the River Sark, which used to be home to the largest number of sand martins in the area, permitted as part of the planning permission? If not, can the operators be required to reinstate it?
- Fish volume in the River is virtually non-existent, compared to the past.
- Hardly any of the old vegetation was set aside to re-establish areas that were worked out.
- Why could this site not have been designated a candidate SAC and redeveloped back to a natural place?
- The site has a Gretna address, so should the local community, through the Community Council, not have had some notification and means of input?

4.0 PLANNING ASSESSMENT

4.1 The Planning and Compensation Act 1991 and Environment Act 1995 provides for the updating of working and restoration conditions on Interim Development Orders and old mining permissions and for their regular review at fifteen year intervals (Schedule 14). The purpose of this legislation is to ensure that all mineral workings, including peat extraction sites, operate under modern schemes of working and restoration conditions and are subject to planning controls that reflect modern environmental standards. The legislation provides for all active sites to be subject to immediate review with periodic review at 15 year intervals thereafter. The previous review permission relating to the
extraction of peat from this site was in 2001 (ref 1/99/9020) which resulted in a new scheme of working and restoration conditions for the site. The current application is to comply with the legislation requiring the permissions for such sites to be reviewed at fifteen year intervals.

4.2 The minerals planning authority (MPA) can either approve the applicant’s proposed schedule of conditions as submitted or impose their own set of conditions. The conditions imposed by the MPA should meet all the tests of planning conditions and in these circumstances should not restrict working rights, nor prejudice adversely to an unreasonable degree the economic viability of operating the site or asset value of the site. If the application is determined on terms different from those set out in the application, the applicant has a right of appeal to the Secretary of State and if his working rights are restricted he may be entitled to compensation. It is not open to the MPA to refuse a valid application of this nature. Conditions likely to give rise to compensation claims would include for example, those that could restrict the area or depths of minerals that could be worked or those that restrict hours of operation or tonnages of minerals extracted per year.

4.3 The main issues in this application relate to the extent of the remaining peat reserves, the scope to undertake further peat extraction, discharges to water courses, fauna and flora and the restoration afteruses that are possible for the site having regard to the remaining peat resources.

4.4 The operator has reviewed the existing conditions and proposed a revised set of conditions which, whilst reflecting the previous conditions, are considered to be less onerous in terms of the operation and restoration of the site.

4.5 It is important to remember that conditions cannot be imposed as part of a review under the Environment Act that would affect the applicant’s working rights - for example by restricting the amount of peat that can be worked from the site or reducing the timescale for extraction without the risk of a compensatory claim being made. The principle of working peat on this site has been established and whilst the continuation of such may be seen contrary to certain national policies and has received local criticism or objection, this is not, in these circumstances a matter the County Council can take issue with or restrict. Nevertheless, the application and proposed conditions have been reviewed against the policies of the development plan and in light of consultee responses and representations received.

4.6 Peat has been worked from this site from the 1960’s. Peat resources are of great environmental and cultural value. They are also of importance as carbon sinks and often give rise to habitats that are of considerable biodiversity importance. They can also include significant archaeological remains.

4.7 The applicant proposes to continue the working of peat from an area of approximately 247.05ha so that a minimum peat thickness of 0.5m would be retained across the site as required by the current scheme of working and controlled by condition. Peat will continue to be extracted using the existing method of surface milling on a campaign basis (primarily between May and September), and would be used to produce a variety of horticultural products that are sold from the site in bagged form. The peat is dried by wind and sun to reduce the moisture content from around 92% to between 45/55%. The peat extracted is used in commercial horticulture, e.g. food production (mushrooms). Outside these periods operations include works to maintain ditches, ponds, outfalls, maintenance etc.
4.8 In terms of usage of peat, 68% of horticultural peat used in the UK is imported, the majority of which is from Southern Ireland (60%). To continue extracting peat at Solway Moss would therefore reduce carbon miles of transporting imported peat and maintain supply to existing markets. However, it is necessary to assess the environmental impacts associated with such.

Drainage

4.9 The success of the restoration operations to restore the site to peat to low land raised bog will depend largely on the ability to control water levels to the degree required to allow such habitats to develop. The ditches are 1m wide and 1.3 – 1.5m deep and are regularly cleaned. This system is linked to deeper collection ditches and main outfalls which incorporate pools and weirs to regulate drainage and the removal of suspended solids. The main function of the ditches is to accelerate the removal of surface water.

4.10 There are 6 discharge points ultimately draining into the River Sark and River Esk. No authorisation for the discharges is required from the Environment Agency who notes the existing system is not proposed to change. There would be no increase in volumes as part of the discharges other than in the event of fluctuations in meteorological conditions.

4.11 The means of draining the site is the subject of a proposed condition to manage the quality of discharge and the amount of suspended solids to ensure the quality of water being discharged and minimising the mobility of suspended solids into the Rivers Esk and Sark. Subject to such a condition it is considered that the drainage to the site is acceptable.

Flora and fauna and restoration

4.12 An extended habitat survey has been carried out including an assessment of badgers. The survey has reviewed previous ecological data, assessed the presence/potential of protected species including bats, badgers, otters and water vole and carried out a National Vegetation Classification. The survey concluded there was no evidence of otters, water voles, great crested newts on the moss although there is evidence of badger activity. The majority of the site is proposed to continue to be worked and as this constitutes bare peat, it has little if any conservation value. Badger activity would be monitored and appropriate action to taken to avoid disturbance and which is the subject of a condition.

4.13 A Habitats Regulations Assessment has been carried out. The Assessment concludes that the ongoing peat working at Solway Moss will not, either alone or in combination with other plans and projects, have an adverse effect upon the interest features of the Solway Firth SAC or the Upper Solway Flats and Marshes SPA and the tests required for the meeting of the favourable condition of each designated site providing there is an ongoing commitment to management, monitoring and reporting of discharges at each of the 6 outfall structures, that remedial action should take place to the functioning of the silt control and outfall structures in a timely fashion if 300mg/l suspended solid discharge levels are exceeded. For each of the Conservation Objectives, it is concluded that no detrimental impact upon the site achieving these Objectives would arise from the ongoing peat extraction operations at the Moss and that the integrity of Solway Firth SAC and the Upper Solway Flats and Marshes SPA would be maintained.

4.14 Subject to conditions controlling badger monitoring, drainage and outfalls it is
considered that there would be no unacceptable impacts on fauna or flora and that the proposal accords with the policies of the development plan.

**Landscape and visual impact**

4.15 In visual landscape terms the existing moss has the appearance of ploughed agricultural fields. It falls within the coastal margins landscape character type – predominantly flat open landscape. Potential receptors include local residents, local road users and walkers on the Cumbrian Coastal Way.

4.16 The site is remote from residential properties and the nature of the peat extraction operations on site are more akin to agricultural operations than to mineral working. There are no public rights of way across the site. The actual peat extraction operations utilise plant and machinery that is not dissimilar to that used in agricultural practices. The site now plays host to a number of wind turbines which dominate the visual landscape. The impacts of the peat extraction on local amenity are therefore relatively slight. It is therefore considered the continuation of peat working would not have an unacceptable visual impact on the landscape and would comply with the policies of the development plan.

**Restoration**

4.17 The areas that have been worked are becoming colonised by mire vegetation and these are proposed to be used as ‘doner’ areas for progressive future restoration of worked out areas and are proposed to be protected as part of the Interim Restoration plan and which can be controlled by condition.

4.18 It is proposed to retain a minimum of 0.5m of peat to restore the site back to a peat wetland habitat. Working and restoring the site, together with the treatment of the final land surface following the completion of working is the subject of a condition requiring the submission of a detailed scheme of restoration and which would address the concerns of Natural England. Subject to such conditions it is considered that the proposal would have no negative impacts on the fauna and flora of the area and in the longer term would benefit from progressive restoration and therefore would comply with the policies of the development plan.

**Traffic**

4.19 Peat worked from the site is transported across the B7076 to the neighbouring manufacturing and bagging plant. There are no vehicle movements directly from the Moss onto the highway network. The plant is subject to a separate planning permission and therefore is not within the remit of this application. Nevertheless it is proposed to restrict the hours of transporting peat to the manufacturing plant to protect the amenities of the area. Subject to such a condition it is considered the proposal would accord with the policies of the development plan.

**Historic Environment**

4.20 The whole of the application site has been disturbed by peat working. No conditions relating to archaeology were attached to the 1995 review permission. Peat deposits can sometimes contain significant archaeological remains but in assessing the need to attach planning conditions requiring further assessment work prior to each working campaign, it is necessary to have regard to the extent of the peat deposits remaining on this site. It is therefore considered that a condition should be imposed requiring a scheme of archaeological works to be submitted and approved and which forms part of the recommendation. Subject to
such a condition it is considered the proposal accords with the policies of the development plan.

Dust

4.21 Given the nature and scale of the operations it is considered that dust from the extraction of peat would not cause a problem on the site or migrating off the site. Nevertheless a condition is proposed requiring the suspension of operations if airborne dust migrates beyond the site boundaries to an unacceptable degree or the employment of dust suppression measures. Subject to such a condition it is considered the proposal accords with the policies of the development plan.

Representations

4.22 With regard to representations received, measures are proposed to prevent silt flowing into the rivers; a Habitat Regulations Assessment has concluded, subject to the imposition of conditions controlling discharges, there would be no unacceptable impact on the rivers or protected areas and by implication fauna. The river embankment does not fall within the planning application boundary. Vegetation ‘donner’ areas will be used to assist in final restoration and which will ultimately be restored back to lowland bog habitat. The application was advertised in the press and by site notice and representations invited.

Human Rights

4.23 Given the nature, scale and location of this proposal, no Convention Rights as set out in the Human Rights Act 1998 would be affected.

Conclusion

4.24 In summary, it is considered that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably by mitigated. It is therefore recommended that after first taking into consideration the environmental information, as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations, conditions be imposed as set out in Appendix 1 to this report.

Dominic Donnini
Director of Economy and Highways

Contact: Mrs Rachel Brophy BA(Hons) MA MRTPI, Kendal, Tel: 01539 713413; Email: rachel.brophy@cumbria.gov.uk

Background Papers: Planning Application File Reference No. 1/16/9006

Electoral Division Identification: Longtown ED - Mrs Val Tarbitt
Proposed Planning Conditions

Time Limits

1. The winning and working of peat shall cease no later than 21 February 2042. By this date, the operations hereby permitted shall have ceased; all buildings, structures, railway lines, haul roads, storage areas, plant and machinery, including foundations and hardstandings, shall have been removed from the site, and restoration of the site shall have commenced, in accordance with the approved restoration scheme.

Reason: To secure restoration to the appropriate afteruses following the approved period for this temporary development.

2. Notwithstanding Condition 1, within 6 months of the permanent cessation of peat extraction prior to the full implementation of the approved scheme, or before 22 February 2037, a revised scheme for the final restoration of the site, to include details required by conditions 22, 24 and 25 of this permission shall be submitted to the Mineral Planning Authority for approval in writing. The approved scheme shall thereafter be implemented in full.

Reason: To secure the proper restoration of the site in accordance with Policy DC16 of the CMWLP.

3. In the event that peat extraction is temporarily suspended for a period exceeding one year, as agreed in writing by the Mineral Planning Authority, then within 15 months from the suspension of peat extraction an interim restoration scheme and timetable for its completion shall be submitted for the approval of the Mineral Planning Authority. Such an interim restoration scheme shall be fully implemented, unless otherwise agreed in writing by the Mineral Planning Authority.

Reason: To secure the satisfactory interim restoration of the site in the event of the temporary cessation of mineral working in accordance with Policy DC16 of the CMWLP.

Approved Documents

4. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following approved documents:

a) The submitted Application Form – dated 23 February 2016; and further information submitted on 23 January 2017

b) Solway Moss ROMP 2016 Environmental Statement – dated June 2016;

c) Plans numbered and named:
   - The Scotts Company (UK) Ltd, Solway Moss - Location Plan
   - The Scotts Company (UK) Ltd, Solway Moss – Plan PP1
   - The Plan Ref No. MW/A2, Section 1.5 (RML1)
   - Map 6 – Production areas exhaustion dates

d) All details or schemes and programmes approved in accordance with this
permission, and
e) The Decision Notice.
The existence and content of the approved documents shall be made known to all operatives responsible for the operation, restoration and aftercare of the site.

Reason: To ensure the site is worked and restored in accordance with the approved scheme and to comply with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

Permitted Development Rights

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other Order amending, replacing or re-enacting that Order) planning permission shall be obtained from the Mineral Planning Authority, before any buildings, structures or erections, fixed plant or machinery, are erected, or installed on the site or on ancillary mining land.

Reason: To maintain control over additional built development upon the site in the interest of amenity.

6 No waste materials shall be deposited at the mineral site.

Reason: To maintain control over the deposit of waste material which may adversely impact upon the restoration of the site to a nature conservation afteruse.

7 No further extraction of peat shall take place within the areas referred to as ‘Unworked Areas’ and coloured green on The Scotts Company (UK) Ltd Solway Moss Plan PP1.

Reason: To clarify the areas where no further peat extraction will take place the boundary of the worked area and to delineate the areas where peat may be extracted.

8 The final gradient of the worked area from the edge of the vegetated areas at Gulf Wood (coloured purple on Map 6 Production areas exhaustion dates approved 30 January 2001 attached to and forming part of this planning permission) shall not exceed a gradient of 1 in 20. Around the remaining perimeter of the worked area there shall be no further peat extraction within 20 metres of the boundary of the application site and the final gradient of the worked area from the boundary of the application site and on internal baulks separating fields shall not be steeper than a gradient of 1 in 5.

Reason: To maintain the stability and ground water levels of the adjacent Gulf Wood area to help safeguard its natural conservation interest, to ensure the stability of the baulks and elsewhere around the periphery of the site to provide adequate support to adjacent land and to comply with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

9 Within 12 months from the date of this decision notice details of existing areas within the site to be identified as critical refuge including the criteria for such identification, the biological makeup of the areas including a list of plant species present, and the methodology for using the refugia as doner areas for the
restoration of other areas within the site shall be submitted to the Mineral Planning Authority for approval in writing. The critical refugia areas shall thereafter be protected throughout the operational life of the site the subject of this permission and used as ‘doner’ areas to assist in the restoration of the worked out site.

**Reason:** To ensure the protection of critical refugia where special environmental circumstances have enabled species or communities of species to survive after extinction elsewhere, in the interests of nature conservation, in accordance with Policy DC10 of the Cumbria Minerals and Waste Local Plan.

10 Peat or other materials resulting from the peat extraction process shall not be stockpiled at a height exceeding 5m above ground levels.

**Reason:** To protect the visual amenities of the area.

11 In the event badgers are present or become present on any part of the site measures to protect the badgers shall be employed in accordance with those set out in Option 1 of the Badger Annex

**Reason:** To ensure compliance with NERC Act Paragraph 40 ‘biodiversity duty’ and to ensure measures are in place to enable compliance with the Protection of Badgers Act 1992, in accordance with Policy DC10 of the Cumbria Minerals and Waste Local Plan.

**Safeguarding of Watercourses and Drainage - Settlement lagoons**

12 Settlement lagoons shall be installed and maintained at all water outfalls from the site to ensure that the suspended solids content of water discharged from the site is less than 300mg/l. All water outfalls (referred to as Discharge Points 1-6 on Plan 2 of the Regulation 22 Request: Further Information document, dated 23 January 2017) shall be measured at least once a year during the harvesting season and the suspended solids content measured. If the suspended solids content is greater than 300mg/l, remedial measures to reduce it to below this level shall be taken within 30 days of the receipt of the results of the measurement of suspended solids content.

**Reason:** To avoid the pollution of any watercourse or groundwater resource in accordance with Policy DC14 of the Cumbria Minerals and Waste Local Plan.

**Safeguarding of Watercourses and Drainage**

13 All fixed facilities for the storage of oils, chemicals and fuels shall be sited on impermeable bases and surrounded by impermeable bunds. The volume of the bunded compound shall be at least the equivalent to 110% of the volume of the tank(s) and storage containers. All filling points, vents, gauges and sight glasses must be located within the bunded area. The bunded area shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be designed to discharge downwards into the bunded area.

**Reason:** To avoid the pollution of any watercourse or groundwater resource in
accordance with Policy 14 of the Cumbria Minerals and Waste Local Plan.

Access and Traffic - Hours of transportation

14 There shall be no transport of peat from the site onto the public highway or to the adjacent processing plant outside the hours of:

0600 to 2100 Mondays to Fridays
0600 to 1800 Saturdays
0900 to 1600 hours Sundays

Reason: To protect the amenity of local residents in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan.

Access and Traffic

15 There shall be no transport of peat from the site onto the public highway other than via the existing access shown in green on plan ref: MW/A2 Section 1.5 (RML1).

Reason: To avoid vehicles entering or leaving the site by an unsatisfactory route in accordance with Policy 1 of the Cumbria Minerals and Waste Local Plan.

16 Sufficient space shall be provided within the access road to ensure vehicles can pass so that vehicles do not queue on the public highway prior to gaining access to the site.

Reason: In the interests of highway safety, in accordance with Policy 1 of the Cumbria Minerals and Waste Local Plan.

17 All vehicles used to transport bulk peat from the worked area onto the public highway (other than those delivering to the processing factory) shall be netted or sheeted so as to not deposit any mineral upon the highway.

Reason: To ensure that material is not released into the air or deposited upon the highway in the interests of local amenity and highway safety.

18 The surfacing of the access road to the public highway shall be maintained in a good state of repair, free from potholes, and effective measures shall be taken to prevent mud, peat and other material being carried onto the public highway.

Reason: To ensure that no material is carried onto the public highway from the access road in the interests of highway safety and that the access road is maintained in an adequate condition for the traffic generated by the approved operations.

Control of Noise

19 All plant, equipment and machinery used in connection with the operation and maintenance of the site shall be equipped with effective silencing or sound proofing equipment and shall be maintained in accordance with the manufacturers specification at all times throughout the development. Where reversing or other alarms are fitted to equipment they shall only be of a broadband “white noise” type.
Reason: To safeguard the amenity of local residents and adjacent landowners and land users by ensuring that noise does not cause a nuisance outside the boundaries of the site, in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan.

20 Noise arising from site operations within the hours specified in condition 14, as measured 3m from the façade of any noise sensitive property, shall not exceed the background noise level (dB LA 90 (1hr)) by more than 10dB (A) and shall not exceed a maximum noise level of 55dB(A) LAeq, 1hr (free field).

Reason: To safeguard the amenity of local residents and adjacent landowners and land users by ensuring that noise does not cause a nuisance outside the boundaries of the site, in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan.

21 Temporary operations shall be permitted to exceed the noise limits set out in condition 20 for a period which in total does not exceed eight weeks in any 12 month period. During this maximum eight week period, noise levels from such temporary operations shall not exceed 70 dB(A) LAeq, 1hr (free field) as measured at any noise sensitive property.

Reason: To safeguard the amenity of local residents and adjacent landowners and land users by ensuring that noise does not cause a nuisance outside the boundaries of the site, in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan.

Control of Dust

22 In any instance where visible airbourne dust migrates beyond the site boundaries, source activities generating the dust shall cease until such time as either weather conditions change to prevent the dust migrating beyond the site boundaries or supression measures have been put in place to prevent the dust migrating beyond the site boundaries.

Reason: To safeguard the amenity of local residents and adjacent landowners and land users by ensuring that dust does not cause a nuisance outside the boundaries of the site, in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan.

Archaeology - Access for archaeology investigations

23 Within 6 months of the date of this permission coming into effect, the applicant shall have submitted details of a programme of archaeological work to record the assets disturbed by the extraction of peat. The scheme shall include but not be limited to:

a) A programme of palaeo-environmental assessment and analysis of peat deposits;

b) A periodic inspection of exposed sections of faces of peat to identify and record any archaeological assets;

c) Commitment to submitting to the Mineral Planning Authority a report detailing the results of the programme of archaeological work described in i and ii above;

Reason: To safeguard the amenity of local residents and adjacent landowners and land users by ensuring that noise does not cause a nuisance outside the boundaries of the site, in accordance with Policy DC2 of the Cumbria Minerals and Waste Local Plan.

Archaeology - Access for archaeology investigations

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a) A programme of palaeo-environmental assessment and analysis of peat deposits;

b) A periodic inspection of exposed sections of faces of peat to identify and record any archaeological assets;

c) Commitment to submitting to the Mineral Planning Authority a report detailing the results of the programme of archaeological work described in i and ii above;

d) A timetable for the implementation of the programme of works identified in i and ii above, and
e) Commitment to notifying the Mineral Planning Authority in writing of any items of potential archaeological interest found on the site, suspending further peat extraction operations and permitting access (at all reasonable times for the duration of the permission) by any archaeologist nominated by the Mineral Planning Authority for the purposes of carrying out archaeological investigations, examinations, recording and any necessary removal of items and suspending peat extraction.

The approved scheme shall thereafter be implemented in full, and commissioned and undertaken at the expense of the site operator.

*Reason:* To allow for suitable recording and excavation of finds of archaeological interest in accordance with Policy 14 of the Cumbria Minerals and Waste Local Plan.

**Restoration - Method of working and restoring wet dug peat extraction areas**

24 Peat shall only be worked when it is in a sufficiently dry condition to ensure a satisfactory restoration of the site.

*Reason:* To secure the effective restoration of the site, in accordance with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

**Restoration**

25 An average minimum depth of 0.5m of peat shall be left in situ throughout all the operational extraction phases to facilitate the restoration of the site.

*Reason:* To return the site to its original uses in the interests of local amenity and nature conservation in accordance with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

26 Within 12 months of the date of this permission, a scheme setting out trials of restoration techniques for the areas referred to as ‘Unworked’ and coloured green (with the exception of the operational footprint of the Beck Burn Wind Farm) on The Scotts Company (UK) Ltd, Solway Moss Plan PP1, shall be submitted to the Mineral Planning Authority for approval in writing. The scheme shall include but not be limited to:

- a) Details of the final gradients and topography of the field;
- b) Proposals to extend the trials into areas that have been exhausted of peat extraction during the life of this permission;
- c) Proposals to manage groundwater levels in the trial area to the optimum level for growth of peat forming species;
- d) Measures to ensure a suitable chemical condition of the water for optimum growth of peat forming species;
- e) Techniques for the introduction and management of vegetation and other works;
- f) Longer term management to secure the beneficial restoration of the site for nature conservation purposes;
- g) Timescales for these trial restoration works;
- h) Objective criteria for assessing the success or otherwise of the trials, and
- i) The provision of a monitoring reports to be submitted to the MPA on a biennial basis for the duration of the trial.

The approved scheme shall thereafter be implemented in full.
Reason: To reserve for approval details not submitted with the application and to secure the proper restoration of the site in accordance with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

27 By 22 February 2038 the operator shall submit for approval by the Local Planning Authority a detailed scheme and plans for restoration of the whole worked area. The scheme shall be informed by the results of the trial detailed in Condition 24. The scheme shall include but not be limited to:

a) Details of the final gradients and topography of the field;
b) The location and dimension of baulks to be left and any drains to be retained;
c) Proposals to manage and restore groundwater levels to the optimum level for growth of peat forming species;
d) Measures to ensure a suitable chemical condition of the water for optimum growth of peat forming species;
e) Techniques for the introduction and management of vegetation and other works;
f) Longer term management to secure the beneficial restoration of the site for nature conservation purposes;
g) Objective criteria for assessing when the restoration is complete and the aftercare commences, and
h) Timescales for implementation of these restoration works.

The approved scheme shall thereafter be implemented in full.

Reason: To require details of the restoration of the site not submitted with the application and to secure the proper restoration of the site in accordance with Policy 16 of the Cumbria Minerals and Waste Local Plan.

Aftercare

28 By 22 February 2037, a scheme and programme for the aftercare of the site for a period of 5 years to promote the nature conservation after use of the site shall be submitted to the Mineral Planning Authority for approval in writing. The scheme shall include but not be limited to details of the following:

a) The management of the site to promote the establishment and formation of peat;
b) Details for water sampling in each year of the aftercare period to ensure the optimum growing conditions for peat forming species, and
c) Details of any works to drainage systems to manage groundwater levels.

The approved schedule of aftercare works shall thereafter be carried out in full.

Reason: To secure the proper aftercare of the restored land in accordance with Policy DC16 of the Cumbria Minerals and Waste Local Plan.

29 At least once each year during the aftercare period there shall be a formal review meeting at the mineral site, under the provisions of Section 72(5) of the Town and Country Planning Act 1990, to consider the operations which have taken place and to agree a programme of management for the following year which shall be adhered to by the operator. At least 2 weeks before the date of each review, the operator shall provide the Mineral Planning Authority with a record of the management and operations carried out on each phase during the period covered by the review and a proposed programme of management.
for the coming year.

Reason: To secure the detailed implementation of the approved aftercare scheme in accordance with Policy DC16 of the Cumbria Minerals and Waste Local Plan.
Application No: 1/16/9009
Applicant: Cumbria County Council
The Parkhouse Building
Baron Way
Carlisle
PROPOSAL: Shared use Footway/Cycleway
LOCATION: Land adjacent to the South-west side of Kingmoor Road, Carlisle
1.0 RECOMMENDATION

1.1 That planning permission be **Granted** subject to the conditions set out in Appendix 1 to this report.

2.0 THE PROPOSAL

2.1 Planning permission is sought to create a new shared-use cycleway/footway on land adjacent to the south-west side of Kingmoor Road, Carlisle. The proposed path would extend from No. 66 Kingmoor Road northward to the A689 - the Carlisle Northern Development Route (CNDR), at its Kingmoor Road Roundabout. This would provide a 770m length of shared pathway providing a connecting link between the CNDR’s shared footway/cycleway and the existing path between 64-66 Kingmoor Road that connects into the Belah and Lowry Hill areas of Carlisle.

2.2 It is proposed that the path would be surfaced in tarmacadam and would vary between 2.5m to 3m in width with a cross-slope of 2-2.5%. North of the industrial estate it would be separated from the highway by a verge (with the exception of the passing of the railway overbridge and related transition areas).

2.3 To accommodate the path it is proposed to reduce the road carriageway down to a single lane under the railway bridge and to also reduce its width slightly adjacent to the Kingmoor Road Industrial Estate. New traffic light signals are proposed to control the flow of traffic under the bridge and allow pedestrian crossing from/to Kingmoor Nature Reserve and a public footpath (Public Right of Way No. 109004). It is proposed to provide a 2-lane entry onto the CNDR roundabout from Kingmoor Road by altering the road markings.

2.4 To create sufficient space for the path and verge approximately 400m section of hedgerow and 8 trees/tree groups would need to be removed. 417m of new hawthorn hedgerow and 13 hedgerow trees would be provided on the western side of the proposed path as compensation with 1.2m high wooden post and wire fences placed on either side of these. The existing field gate would be removed and re-erected at the same point but set back along the line of the new fence with the access being resurfaced with asphalt.

2.5 It is proposed to extend the existing 30mph zone from the Kingmoor Nature Reserve Car Park entrance approximately 170m northwards to the outer edge of Kingmoor Road Industrial Estate. It is also proposed to extend the existing street-lighting northwards to the outer edge of Kingmoor Road Industrial Estate. The originally proposed controlled pedestrian crossing at the south side of the railway bridge has been removed from the scheme.

3.0 SITE DESCRIPTION

3.1 Kingmoor Road is a key arterial route to the north-west of the city centre. It is a 2-way single carriageway C class road also identified as the C1016. The road varies in width from approximately 5m to 6m and has no footway provision on either side for the majority of the length that this application relates to. The current speed limit on this section of road is 60mph, reducing to 30mph at the Kingmoor Nature Reserve car park heading towards Carlisle City Centre. The road is unlit from the A689/CNDR roundabout to the edge of the existing 30mph zone.
3.2 The proposed pathway would be adjacent to commercial/industrial business-uses and a field in agricultural use and crosses a number of access to these land-uses. To the east of the C1016 there is residential housing; land that forms part of a designated County Wildlife Site / Local Nature Reserve known as Kingmoor Nature Reserve; an agricultural field and a small woodland area. A number of informal footpaths connect onto Kingmoor Road to provide access to/through the assembly of sites that make up Kingmoor Nature Reserve. A public footpath (Public Right of Way No. 109004) connects onto Kingmoor Road to the south-eastern side of the railway bridge. This right of way provides access through a woodland strip to the northern part of the nature reserve.

4.0 SITE PLANNING HISTORY

4.1 The agricultural field on the western side of Kingmoor Road that is proposed to be developed as part of this application was granted outline planning permission for the erection of 65 no. dwellings on 1 December 2016 following the conclusion of a Section 106 Legal Agreement in relation to the site (Ref. 15/0595). The Section 106 provided for affordable housing, an education contribution, payment by the developer for a Traffic Regulation Order to lower the speed limit on Kingmoor Road at the front of the site, public open space and an off-site recreation contribution. The approved documents associated with this outline permission included the provision of a cycle-way along Kingmoor Road.

5.0 OTHER RELEVANT PLANNING HISTORY / BACKGROUND – CYCLING SCHEMES IN NORTH CARLISLE

5.1 Planning Permissions were granted in 2013 for shared-use footpaths/cycleways between Carlisle’s built-up area and the CNDR along Moorhouse Road (Ref. 1/13/9016) and Burgh Road (Ref. 1/13/9015) and have been constructed. Improved pedestrian and cycle-links have also been provided along Orton Road under permitted development rights.

5.2 The City Council and County Council are jointly developing a Carlisle Cycle Network which is being financed, where possible, from developer contributions. The Crindledyke Cycle Route is one such scheme financed by and connecting the new housing development at Crindledyke with Carlisle City centre. It is proposed that only the southern sections of the Crindledyke Cycle Route - which provide links between Kingmoor Road, Dene Crescent and Lowry Hill will be constructed to adoptable standards. The northern section runs between Parkhouse Road (C1022) and Lowry Hill Road and follows the old Waverley railway line through the Kingmoor North Nature Reserve for the majority of its length. In order to preserve the Nature Reserve environment this route is not going to be illuminated or built to an adoptable standard with the surface being unbound. Work on this northern section is currently underway. The northern sections will be maintained by Carlisle City Council as part of their overall maintenance of the Nature Reserve.

6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires Local Planning Authorities to determine planning applications in accordance with the development plan (i.e. planning policy) unless material considerations indicate otherwise. The relevant development plan for this proposal is the Carlisle District Local Plan 2015-2030 (CDLP) which was formally adopted by Carlisle City Council on 8 November 2016. The key policies relevant to the determination of
this planning application are considered to be:

- Policy SP 1: Sustainable Development
- Policy SP 5: Strategic Connectivity
- Policy SP 6: Securing Good Design
- Policy SP 8: Green and Blue Infrastructure
- Policy SP 9: Healthy and Thriving Communities
- Policy IP 2: Transport and Development
- Policy CC 4: Flood Risk and Development
- Policy CC 5: Surface Water Management and Sustainable Drainage Systems
- Policy CM 2: Educational Needs
- Policy CM 4: Planning Out Crime
- Policy CM 5: Environmental and Amenity Protection
- Policy GI 1: Landscapes
- Policy GI 3: Biodiversity & Geodiversity
- Policy GI 4: Public Open Space
- Policy GI 5: Public Rights of Way
- Policy GI 6: Trees and Hedgerows

6.2 Policy Map 2 which shows the Carlisle Urban Area designates land to the north-east side of Kingmoor Road as Public Open Space (see Policy GI 4).

6.3 The National Planning Policy Framework (NPPF), which was published on 27 March 2012, and the national online Planning Practice Guidance (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF are considered to be relevant to the determination of this application:

- Paragraphs 4-10 - Achieving sustainable development
- Paragraphs 10-14 - The presumption in favour of sustainable development
- Section 4 - Promoting sustainable transport
- Section 7 - Requiring good design
- Section 8 - Promoting healthy communities
- Section 10 - Meeting the challenge of climate change, flooding & coastal change;
- Paragraphs 186-197 - Decision-taking

7.0 OTHER RELVANT NATIONAL POLICY

7.1 The Department for Transport (DfT) published the first Cycling and Walking Investment Strategy on 21 April 2015. The strategy recognises that there is significant potential for change in our travel behaviour as two out of every three personal trips are within five miles - an achievable distance to walk or cycle for most people. It sets out the Government’s long-term ambition to "make cycling and walking the natural choice for shorter journeys, or as part of a longer journey" in England by 2040. The ministerial foreword to the document sets out that: “Reaching that goal will require persistence, patience and resolution. But by working together we can transform our country’s attitude to walking and cycling, positioning England as a global-leader and inspiration around the world”. The strategy considers itself the first step in that long-term transformative change process. In order to achieve its objective the strategy identifies three key themes for investment/interventions: Better Safety, Better Mobility, and Better Streets. This Government Policy Paper is considered to be a relevant material consideration in the determination of this application.
7.2 The Department for the Environment, Food and Rural Affairs (DEFRA) published a Draft UK Air Quality Plan (‘Improving air quality in the UK: tackling nitrogen dioxide in our towns and cities’) for consultation on 5 May 2017 in a bid to ensure timely compliance with Article 23 of the EU 2008 Ambient Air Quality Directive and linked air quality standard regulations. The directive sets legally binding limits for concentrations in outdoor air of major air pollutants that can adversely impact on public health such as particulate matter (PM$_{10}$ and PM$_{2.5}$) and nitrogen dioxide (NO$_2$). Local Authorities are already expected to play a central role in improving air quality (reducing air pollution on the English Road network), and this responsibility seems sure to be further emphasised by the new plan. Air Quality is considered to be a relevant material consideration in the determination of this application.

8.0 CONSULTATIONS AND REPRESENTATIONS

8.1 The application was initially consulted upon between 28 October 2016 and 21 November 2016. It was advertised by site notices displayed along the site; neighbouring properties and the two local county councillors were notified. A number of representations objecting to the proposal were received expressing concern as to its potential impact on motor-vehicular traffic flow and highway capacity and particularly the provision of traffic light signals at the railway-bridge underpass on Kingmoor Road to accommodate the shared use path underneath the bridge.

8.2 In light of the representations updated traffic surveys and further traffic modelling utilising the newly obtained traffic count data were carried out by the applicant and the proposals reviewed. This information, alongside further details in respect of drainage, kerbs and footways was submitted by the applicant on Thursday 13 April 2017. As the further information did not make any substantial revisions to the scheme as initially submitted, a targeted re-consultation to key consultee bodies with interests in highways and drainage matters was carried out between 18 April and 9 May 2017.

8.3 Carlisle City Council Planning Department: No objection. No response received to the re-consultation.

8.4 Carlisle City Council Environmental Health Department: No response received.

8.5 Kingmoor Parish Council: Are not opposed to the proposed cycleway but express concern to the proposed narrowing of the motorvehicular carriageway underneath the railway bridge to a single lane to accommodate the path and the associated provision of permanent traffic light signals and the impact these measures would have on the flow of motorvehicular traffic on the highway network. In this respect they comment that:

a. Recent utilities works under the railway bridge involved the use of temporary traffic lights on Kingmoor Road which resulted in the backing-up of traffic onto the CNDR/A689 and consequent obstruction of traffic flows on the Kingmoor east roundabout.

b. The provision of traffic lights at the railway bridge will cause backing-up and disruption of traffic flow on the CNDR over peak times as traffic flow increases over time.

c. There is already sufficient width for two vehicles to pass by each other underneath the rail bridge without requiring to give way and they do so all the
time. Traffic lights are therefore not required for the flow of vehicles.
d. No figures are provided for the flows of cycles that pass under the bridge.
e. Motor-vehicular traffic would have to stop all the time at the traffic lights even when there are no cycles going under the bridge. Traffic restrictions should not operate all day.
f. Signage could be placed on the bridge asking cyclists to dismount to go under the bridge and they could use the existing path.
g. Suggest that a traffic light trial be undertaken to determine the level of congestion traffic lights would cause at peak times.
h. To obstruct the highway throughout the full 24 hours of a day causing congestion on the ring road is not viable.
i. Low level unobtrusive lighting should be provided down the full length of the path in the interests of safety.
j. Suggest that the path would be better if it was located on the eastern side of Kingmoor Road on land owned Carlisle City Council, as it would reduce the need for users of the path to cross Kingmoor Road itself and access-roads and that there would also be no need to relocate lamp posts making it a substantially cheaper option.
k. The costs of scheme will increase if compulsory purchase powers are required to obtain the land required for development.
l. Query if the project is compliant with procurement regulations and law.

8.6 A further response, denoted as providing a “revised position” was received on 22 March 2017 from Kingmoor Parish Council. This stated:

“Kingmoor Parish Council supported the original application but wanted the [traffic] lights removed. After a presentation from … Programme Control Officer for Cumbria County Council when it was made clear that the cycleway cannot exist on safety grounds without the traffic lights, the members of Kingmoor Parish Council find themselves unable to support the application due to the sense of feeling in the community. As we are unable to find one person who wants the traffic lights under the bridge as a parish council it would be irresponsible for us to support the application. The parish council asks for the application to be changed from a footway/cycleway to just a footpath. There has been no cycleway from the city under the bridge in the past and no report of an accident. There isn’t a cycleway into the town from the south end of the proposed application and cyclists have to use the road”.

8.7 Kingmoor Parish Council responded to the re-consultation stating that they maintained their objection to the application on the grounds previously stated. In addition they queried the view of the applicant that if the path were to be taken inside the nature reserve, there would still likely be loss of trees and the benefit of natural surveillance from the carriageway would be lost when a similar proposal to put a cycle way through the northern section of ‘Kingmoor Nature reserve has been approved and is underway, even though it will also take cyclists away from the main carriageway and affect the habitat.

8.8 A ‘Joint’ letter from Chair of Kingmoor Parish Council and County Councillor Allison expressed support for the scheme in principle but not in its execution as proposed in this application. The letter reports that the Parish Council placed single form without bias in the local Post Office (Belah Division) inviting comment which generated 109 responses in a single week, with 107 objecting to the scheme and only two supporting. The letter expresses disappointment that there has been no involvement with elected City/County/Parish Council members
familiar with the area nor the cyclists who actually use this road. The letter requested the application be deferred for re-assessment.

8.9 The letter provides photographs and commentary in respect of the route, breaking it down into three stages/sections - i) the north end at the railway bridge; ii) the mid section and iii) the southern end within the urban area.

8.10 The north end at the railway bridge: Consider the critical direction is southbound from the CNDR as there is limited holding capacity between the bridge and the CNDR. Any tailbacks reaching the roundabout impacts immediately on the CNDR traffic flows. Observe that at busy periods even minor hold ups lead to almost immediate tail backs. The letter provides details of a traffic count undertaken by the Parish Council on Thursday 22 November 2016. This counted 439 vehicles heading southbound during the afternoon peak. They observe that this figure is almost at the projected 2025 levels set out in the application’s original traffic modelling. From this exercise they observed that:

a) there was capacity for 10-12 vehicles between the rail bridge and the CNDR;
b) that only one cyclist was observed during the morning (7.45am-8.45am) and afternoon (4.40pm-5.40pm) peak hours observed;
c) that the traffic speed to the bridge was circa 40mph and from the bridge was circa 25mph and that this “dispels the notion that it is that it is already de-facto single lane by vehicles giving way to those already entering the bridge”;

8.11 In respect of this section of route the letter reaches the following conclusions:

i) Sharing vehicular and cycle traffic is an unacceptable risk.
ii) The ratio of vehicles to cyclists does not warrant the costly creation of a separate cycle lane under the bridge and the high risk of recurring tailbacks onto the CNDR during the PM peak periods.
iii) Sightlines are good on both sides of the bridge and off-peak cyclists use their judgement. For the peak periods we suggest a simple cyclist activated traffic-light as on a pedestrian crossing, on both sides of the bridge operated only on demand. No structural alterations or changes to the road layout are needed.

8.12 The mid section: Calculate that for this 528m section, the two areas of nature reserve on the eastern side of Kingmoor Road cover approximately 50% of this length. Consider that the cycleway could be routed around trees within the nature reserve. Consider this an opportunity to provide and encourage wider recreational access to the Kingmoor Park Nature Reserve for cyclists & disabled access and to be consistent with the new local plan. The letter comments on the comparative financial value of the land to the east compared to the land to the west. Consider that the proposal is determinedly committed to the west side with no evidence that an alternative eastern routing has been assessed and costed against the route proposed in the application.

8.13 The southern end within the urban area: Consider the western side of the road to be inherently unsafe for path users as it crosses three industrial estate entrances. Also observe that the western routing requires narrowing of a section of the road carriageway and movement of street furniture alongside this busy road.

8.14 Cllr Trevor Allison responded to the re-consultation stating that he maintains his objection.
8.15 **Rory Stewart MP for Penrith and The Border:**

“I am writing on behalf of Kingmoor Parish Council regarding the above application for a cycle-way on Kingmoor Road. Firstly, the Parish Council have been very clear that they are supportive of a dedicated cycle-way, and are in fact looking to develop with partners a cycle-way north of the CNDR roundabout to Cargo. It is only certain elements of the application that they have concerns about, namely a set of traffic lights at the Kingmoor Bridge and the cost to date of public funds that have been spent by CAPITA to reach this stage of the application process. They also feel that there has been no involvement of local council members or cyclists who use the route, and are concerned that alternative options have not been given proper consideration. I understand that the Parish Council conducted a short survey, and out of 109 signatures, 107 local people objected to the application, and that City Councillors Marilyn Bowman and James Bainbridge, and County Councillor Trevor Allison are also opposed to the application. I am aware that the Parish Council have written directly to Planning Officer Edward Page with a detailed report and some very sensible recommendations which I fully support. And I would like to ask that this report and all alternative options are given full consideration before the application goes to committee on 6 January. Furthermore, I am told that the Parish Council have requested a site visit, but that the County Council has so far refused, and I would be grateful if you would reconsider this in order that the County Council fully understands both sides of the argument”

8.16 **CCC Highway Authority:** Accept the principle of the installation of a footway/cycleway in this location. Requested further information to assess the interaction of the traffic signals and the A689 roundabout. Considered it would be appropriate to extend the street lighting and 30mph speed limit to the extent of Kingmoor Industrial Estate. LTN 2/95 states that any pedestrian crossing at a traffic controlled point requires street lighting. Observes that there are three accesses/entrances within the existing built-up urban area, two field entrances and the access to Oakdale. Whilst the crossing of this number of accesses is not ideal it is considered that the traffic generated by these will be insignificant and the traffic signals will be visible for the users exiting from these accesses. With regard to the additional information the proposed development is considered to be acceptable in highway terms.

8.17 **CCC Lead Local Flood Authority:** Note that the application site is 0.8ha and within flood zone 1 and as such a flood risk assessment is not required. As the application is proposing to increase the hard surfaced area request further information in the form of a surface water disposal strategy compliant with the non-statutory technical standards for sustainable drainage systems in order to demonstrate that the proposal will not increase flood risk within the site or to other areas. Also notes that there have been occasions when flooding of the railway underpass has occurred and requested information on this and the impact of the additional hard surfaced areas will have on flood risk and drainage within this specific area. Following the re-consultation CCC Lead Local Authority considered the details for the disposal of surface water for each section of the scheme to be acceptable.

8.18 **Network Rail:** Comment that:

a. in addition to any planning consent that may be issued, the developer is to submit directly to Network Rail:
i. a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway in advance of any proposed works that involve excavation and/or construction works on or near the railway bridge.

ii. A BAPA (Basic Asset Protection Agreement).

b. Request that the applicant renew the height warning signs on the railway bridge (ETC 261) and on the approach to the asset. These should be installed as per the latest standard.

8.19 No response received to the re-consultation.

8.20 **Cycle Carlisle:** Express their full support for the application and that they look forward to this additional piece in the jigsaw of Carlisle cycle routes

8.21 **SUS-Trans:** No response received to either consultation.

8.22 **CCC Ecological Consultant:** Satisfied that the proposal will result in little ecological impact and that conditions protecting breeding birds and requiring adherence to the precautionary measures specified in the submitted documents in relation to Great Crested Newts would ensure any direct impacts can be adequately addressed.

8.23 **CCC Historic Environment Officer:** No objection.

8.24 **CCC Rights of Way:** If Public footpath 109004 will be affected by construction work associated with the proposed development at its terminus with Kingmoor Road then it will be necessary for it to be closed / stopped-up for the duration of the works affecting it via a Traffic Regulation Order.

8.25 **Cumbria Constabulary Crime Prevention Design Adviser:** No objection. Notes that the proposed route runs directly adjacent to the present carriageway for its entire length and consequently shall be in full view from passing traffic. Advises that care must be taken that plant species in the new landscaping scheme do not obstruct views or create hiding places along the route as they mature.

8.26 **Cumbria Fire & Rescue Service:** No comment.

8.27 **British Telecom:** No response received.

8.28 **Electricity Northwest (ENW):** No objection. Note the application could have an impact on their infrastructure as records indicate an ENW underground high voltage cable close to Kingmoor Road. Advise the applicant that great care should be taken at all times to protect both the electrical apparatus and any personnel working in its vicinity and stress that safe digging techniques must be used during any ground works in the area. Should there be a requirement to divert the apparatus because of the proposed works the cost of such a diversion would be borne by the applicant.

8.29 **Northern Gas Networks:** No objection. Note that they have apparatus in the area that may be at risk during construction works and should the planning application be approved care must be taken in working in proximity to their assets and that diversionary works may be required.

8.30 **United Utilities:** No response received.
Four representations have been received; two from residents on Kingmoor Road, one from the Carlisle City Councillor for the adjacent district ward of Stanwix Rural and the other from a local landowner.

One of the local residents supports the application but raises safety concerns about the proposed introduction of an uncontrolled crossing for pedestrians and cyclists just inside the existing 30mph speed limit as they observe that many drivers leaving Carlisle accelerate before they reach the 'derestricted' sign, and similarly on entering Carlisle many drivers only begin to decrease speed when they reach the 30mph sign. They query whether it would be possible to reduce the speed limit of the section of road that is currently set at the national speed limit in proximity to the urban area.

The other local resident raises concern about the “certain congestion” the proposed traffic lights at the railway bridge would cause as motor-vehicles form the majority of the users of this route. They also observe that the section of Kingmoor Road subject of this application has become a fairly high volume traffic route between the northern bypass and residential areas.

The neighbouring City Councillor, echoes concerns about potential backing-up and congestion on the A689/CNDR at peak times as a result of the proposed traffic lights and raises concerns that traffic lights at this point on Kingmoor Road could lead drivers seeking out the next viable route from the CNDR into Stanwix which would be through Stainton (U102) and into the side streets of Stanwix and that this would be a retrograde step. The Councillor also raises concerns in respect of drainage under the bridge, highlighting that at times of heavy rainfall the dip under the bridge floods to a quite high level.

McCarron Enterprises Carlisle Limited who own property and land at “Kingmoor Works” object as they did not receive notification of the application directly (instead receiving it via one of their tenants) and because discussions/communications regarding a deed of dedication for this land were stopped by Carlisle City Council on the basis that plans had changed. Following confirmation that the path was not on their land the objection was withdrawn.

9.0 PLANNING ASSESSMENT

Principle of the Development

The proposed shared footway/cycleway (the pathway) would provide improved transport infrastructure supporting and encouraging more sustainable methods of travel thereby improving the safety of pedestrians and cyclists and contributing to the improvement of air quality by reducing the number of vehicles on the road. The proposed pathway would provide an improved pedestrian / cycle link to the north-east of the River Eden between the existing shared-use paths of the City of Carlisle and the CNDR (and to the businesses located around the CNDR) and to local communities beyond the city limits such as Cargo and Rockcliffe. The provision of a shared pathway segregated from traffic along Kingmoor Road would provide a short, safe and direct route/link on a clear desire line from the urban area to the CNDR’s surfaced shared path network and towards major employment areas.

As such the principle of the proposal is supported by CDLP Policies SP5, SP9 and IP2 which seek to increase the provision for walking and cycling and prioritise safe and convenient access for cyclists and pedestrians; and the NPPF
which encourage the provision of safe and convenient pedestrian and cycle routes.

**MAIN PLANNING ISSUES**

9.3 The main planning issues raised by the application are considered to be the suitability/desirability of the proposed routing; the proposals potential impact on flows of motor-vehicular traffic and highway safety and the proposed removal of hedgerow/trees and the associated ecological impact of this. Other material planning considerations include matters of amenity, minimising opportunity for crime, public rights of way, the water environment (including drainage and flood risk) and visual and landscape impact.

**Suitability/desirability of the proposed route**

9.4 There are clear benefits and dis-advantages to routing the proposed pathway on either side of Kingmoor Road.

9.5 The applicant engaged an Arboriculturist to survey a section of trees on the eastern side of the highway located within the nature reserve (just north of the reserve’s car-park) who concluded a high proportion of the trees to be mature and of high quality and that given there is negligible highway verge along the eastern side of the road beside this, any direct linear route down this side through the nature reserve would inevitably result in the loss of mature/high quality trees. Similarly any routing through the midst of the nature reserve could not be direct and linear, would inevitably result in the loss of mature trees and would not have the benefit of natural surveillance of the carriageway (i.e. it may not feel a very safe route for users). Consequently the eastern routing option was discounted during the preliminary design appraisal stage as any route option through the nature reserve would have had an unacceptable environmental impact in terms of loss of mature trees, hedgerow and biodiverse nature habitat.

9.6 Whilst provision of the route on the eastern side of the road would have the benefit of reducing the need for most users to cross Kingmoor Road, it is considered that safe crossing could be achieved and that this benefit would not outweigh the loss of the mature trees and important habitat within the nature reserve.

9.7 The proposed routing along the western side of Kingmoor Road within Carlisle’s built-up urban area has the dis-advantage of having to cross two industrial estate accesses. If the route were to run along the eastern side of Kingmoor Road within the urban area it would need to traverse across pavement that provides vehicular access to the driveways of three residential properties on Kingmoor Road, a private road serving 15 properties (including Kingmoor Terrace) and the nature reserve car-park.

9.8 On balance, it is considered that the proposed alignment of the route on the western rather than eastern side of Kingmoor Road is preferable as it would have the lesser environmental impact in terms of flora and fauna (avoiding the important habitat of Kingmoor Sidings Nature Reserve and the greater number of mature trees present within this) and has less potential for impact upon residential amenity/conflict (via aligning it on the opposite side of the carriageway to properties on Kingmoor Terrace and Kingmoor Road).
Traffic Impact & Highway Safety

The Railway Bridge Underpass

9.9 The existing width from abutment to abutment under the bridge is only 7.4m which is insufficient to accommodate a paved verge (required to protect the bridge abutments), two way traffic and a shared use path.

9.10 There is currently enough room for two vehicles to pass underneath the rail bridge with the current carriageway at this point measuring approximately 5m in width. Current highways standards require 3.65m per lane for national speed limit roads (i.e. 7.3m width for a two way single carriageway such as this as specified by the Design Manual for Roads and Bridges Volume 6 Section 1 – Part 1 – TD 9/93). Guidance on carriageway widths contained in Road Design Bulletin 32 (April 1992) indicates that 5.5m is an acceptable minimum width for two way HGV traffic.

9.11 Narrow footways/verges of 1.05m and 1.35m width are present either side of the carriageway underneath the bridge and which are interrupted by ‘cut-out’ drains. Given the narrow footway under the bridge, pedestrians and cyclists using these are likely to feel uncomfortably close to and possibly intimidated by motor-vehicles especially given the speed most motor-vehicles travel through it. Because of the form of the bridge there is also a lack of forward visibility for pedestrians on the grass verge.

9.12 Narrow footways/verges of 1.05m and 1.35m width are present either side of the carriageway underneath the bridge and which are interrupted by ‘cut-out’ drains. Given the narrow footway under the bridge, pedestrians and cyclists using these are likely to feel uncomfortably close to and possibly intimidated by motor-vehicles especially given the speed most motor-vehicles travel through it. Because of the form of the bridge there is also a lack of forward visibility for pedestrians on the grass verge.

9.13 There is insufficient width for two traffic carriageway lanes plus a footway/cycleway to meet required modern day standards underneath the railway bridge. Inclusive Mobility – A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure and the Manual for Streets recommend a minimum clear width of 2 metres for footways. Local Transport Note 1/12: Shared Use Routes for Pedestrians and Cyclists (September 2012) indicates that shared paths with a physical outer edge constraint (such as a bridge) require at least a further 0.5m additional space beyond that of a normal path. The submitted scheme proposes the shared cycleway/footway to be 2.75m wide underneath the rail bridge, reducing the motor-vehicular carriageway to 3.25m wide. The footway/verge on the eastern side would remain 1.35m in width.

9.14 In order to provide improved and safe continuous segregated footway/cycleway provision there seems to be little option other than to reduce the width of the motor-vehicular carriageway. Should the existing carriageway be maintained with two way traffic and the existing substandard narrow width path be utilised for cyclists and pedestrians there is a risk of potentially serious accidents occurring due to the narrow width available to cyclists and the adjacent narrow carriageway. Cyclists could collide with pedestrians or other cyclists, or in the worst case be struck by passing vehicles. The likelihood of such an incident occurring is considered to be low however the consequences are potentially fatal. Consequently it does not address cyclist safety and represents a significant
departure from cycling design standards. A separate tunnel through the railway embankment for the path was also considered. Whilst this would have the advantage of removing non-motorised users from this potentially dangerous pinch point this option was discounted for cost and technical reasons.

9.15 Policy IP2 requires new development to prioritise safe and convenient access for cyclists and pedestrians. Consequently the proposal is considered to comply with this aspect of Policy IP2 of the CDLP. However Policy IP2 also requires all new development to be assessed against its impact upon the transport network.

9.16 The primary concern of introducing the proposed one-way motor-vehicular traffic control is that the resultant queues from southbound traffic waiting at the traffic signals would extend back and potentially block the A689 Kingmoor Road roundabout. The applicant has submitted traffic modelling which looks at morning and afternoon peak traffic flows in relation to the proposed one-way traffic control under the railway bridge. The distance between the A689 Kingmoor Road roundabout from the proposed southbound stop line is approximately 90m or 15 vehicle lengths. Therefore, a predicted vehicle queue length of greater than 15 vehicles would be expected to interfere with the operation of the Kingmoor Road/CNDR roundabout.

9.17 The deployment of temporary traffic lights at the railway bridge in late 2016 as part of United Utilities works is reported as having caused tailbacks onto the A689 CNDR. The applicant is of the view that the length of the single file section (between the “Wait Here” boards) for these recent United Utilities road works was over twice as long as the approximately 80m length of single file section proposed as part of this scheme. Correspondingly the applicant is of the view that the ‘inter-green/all-red time’ (i.e. the amount of time that both sets of the traffic lights are on red/orange) would have been over twice as long as the 15 seconds inter-green time proposed as part of the scheme design. Furthermore the control of permanent signals with traffic detection loops is more accurate and reactive to flows than temporary signals. A queue loop sensor would be installed on the approach to the roundabout to trigger a hurry-call to give that approach green. This sensor would detect a stationary car at a certain fixed point and trigger a quicker change-over sequence of the traffic lights. In this instance this would be used to trigger a change if queuing traffic were to come close to backing-up onto the CNDR A689. It is considered unlikely that permanent traffic light signals would cause the same amount of queueing as experienced during the recent utilities works.

9.18 The initially submitted modelling indicates that the average of the maximum queue lengths are predicted to comprise between 9-10 vehicles or 55-60m in the 2030 design year scenario for the more critical southbound direction during the evening peak. Within this modelled scenario the proposed traffic lights at the railway bridge would therefore not adversely impact on the CNDR Kingmoor Road roundabout. However the applicant acknowledges that this modelling utilised 2013 derived data (albeit including a 5% addition to account for growth in the intervening time) and, that in light of the higher traffic figures collected by Kingmoor Parish Council, undertook to undertake new traffic surveys and update the traffic modelling based on the new traffic count data. The applicant collected traffic survey data for a two week period running from Monday 9 January 2017 to Sunday 22 January 2017. Present day (2017) and future year (2025) scenarios were modelled for both AM and PM peaks and that the 2025 traffic flows were based on 2017 recorded figures with a 20% increase to reflect growth in the local
area (especially Kingmoor Park).

9.19 The revised modelling reveals that the timings of the traffic lights would allow sufficient traffic through southbound at all times to prevent backing-up onto the CNDR Kingmoor Road roundabout in all scenarios. The model also shows no impact or interference of queuing from northbound traffic from the roundabout give-way line back under the bridge for any of the scenarios.

9.20 The modelling indicates that the proposed traffic lights would result in an average of 20-25 second increase in the times of journeys during peak times in the 2025 scenario. Outside of peak times the average delay would be less. Most of the time when the road is quiet and there is no traffic running under the bridge the traffic signals would rest on red and the first car to drive over a detector on the approach would receive a green signal and be able to drive straight through.

9.21 The 2030 scenario was not re-run due to current uncertainty in the 2030 figures due to the assumptions on wider development in Carlisle (especially regarding St Cuthberts Garden Village, where the traffic generation assumptions were very high).

9.22 The revised/updated modelling is considered to be sound and its’ results provide confidence that the proposed traffic lights would not jeopardise highway safety on the CNDR or Kingmoor Road and would not cause undue inconvenience to motor-vehicular traffic. CCC Highways consider the updated traffic modelling to be acceptable. The proposals would serve to slow down the speed of traffic on this section of road, and thereby improve safe passage for all. The proposal would prioritise safe and convenient access for cyclists and pedestrians in this location and it is considered that the modelling has demonstrated that the proposed modifications to the highway underneath and around the railway bridge would not have an adverse impact upon the transport network. Consequently this element of the proposal is considered to comply with Policy IP2 of the CDLP.

9.23 The field access and private drive access either side of the railway underpass generate insignificant traffic flows, and visibility of the proposed traffic light signal heads and approaching vehicles is available to users of these accesses to assess the current signal priority. The risk is therefore considered to be extremely low.

*Highway Safety in relation to the remainder of the route*

9.24 With no existing pavement pedestrians must use a combination of the grass verge (or some sections of local nature reserve) and the highway to travel along this route; whilst cyclists must use the highway. The levels of traffic (which includes a reasonably high proportion of HGVs) and their speed on this stretch of Kingmoor Road create an environment that makes cycling and walking an unattractive option. A number of high-speed overtaking manoeuvres by cars overtaking other motor-vehicles on the short approximately 600m stretch of national speed limit road between the railway bridge and the current city limits have been observed creating risks to pedestrians and cyclists. It is considered the proposed pathway would make the route safer and more attractive for pedestrians and cyclists and thus increase the number of non-motorised journeys.

9.25 The proposed scheme would provide a segregated direct route for pedestrians and cyclists for the vast majority of its length and interconnect with other cycle /
pedestrian routes. Where possible the proposed pathway would be separated from the motor vehicular carriageway by a grass verge so as to improve the safety of and experience for non-motorised users of the pathway. For approximately 60% of the route a 5-6m verge between the path and highway would be provided.

9.26 The proposed uncontrolled crossing at the southern end of Kingmoor Road has been assessed for visibility and complies with the necessary standards. Whilst it accepted that the crossing of two industrial estate accesses by the proposed pathway is not ideal, CCC Highways consider that the traffic generated by these access points is low and that they have good visibility for all users. The provision of appropriate signage and coloured surface marking across these accesses would also serve to assist in safe passage for all users. The proposed extension of the 30mph speed limit to encompass the northern access would further reduce risks.

9.27 A combined Stage 1 and Stage 2 Road Safety Audit Report has been carried out in respect of the proposed route and its design. The report concludes that the scheme as designed would allow for a sufficient level of safety for pedestrians, cyclists and motor-vehicular users. It is considered that the proposed pathway would represent a marked and significant enhancement in highway safety for cyclists and pedestrians on this stretch of road from that as existing.

**Loss of Hedgerow**

9.28 For a countryside hedgerow to be categorised as important under the Hedgerow Regulations 1997 it must meet only one of the criteria set out in Part II of Schedule 1 of the regulations. These criteria cover archaeological, historical, wildlife and landscape values. The submitted Hedgerow Assessment concludes that the hedgerow is considered to be important on the grounds of it meeting the woody species criteria set out in Paragraph 7 of Part II of Schedule 1 to the Hedgerow Regulations 1997. Whilst this conclusion is not disputed, it is understood that gapping-up of this hedgerow has recently taken place to a number of sections sometime around 2012. The current good health and condition of these gapped areas demonstrate how quickly new hedgerow can establish in this area.

9.29 There is a presumption is in favour of protecting and retaining important hedgerows; however the Regulations require the local planning authority to make a case-by-case judgement whether the hedgerow removal is justified. DEFRA’s *Hedgerow Regulations 1997 – A Guide to the Law and Good Practise* sets out at paragraph 8.16 that “the circumstances in which removal of an important hedgerow is allowed to proceed are likely to be exceptional. But a local planning authority might consider that the wider public interest was best served by removal of the hedgerow”. The guidance goes on to provide examples of reasons such as overriding arguments of public safety (deploying the example of making way for essential improvements to a local road which is an accident black spot and where there is no other solution to the problem) or where alternatives may have wider environmental impacts.

9.30 The provision of the proposed footway/cycleway link is considered to provide a wider public benefit by providing improved connectivity by more sustainable transport modes and helping promote healthy living objectives. It would also provide safer pedestrian/cycle movements along Kingmoor Road. Provision of the route on the eastern side of the road would have a greater environmental
impact due to the nature reserve and the greater number of mature trees present here, although it is noted that the hedgerow to the eastern field is in poorer condition.

9.31 The existing hedgerow could theoretically be retained and the route provided to either side of this. However if the pathway were to be provided to the western side of the hedgerow, this would create an enclosed and sheltered route that would not benefit from natural surveillance (and thus not contribute to planning-out crime). This would create a more onerous maintenance regime for the hedgerow in terms of access and works to prevent obstruction to the new pathway and maintain suitable visibility for the users of the road and pathway. If the pathway were to be provided to the eastern side of the hedgerow then there would be inadequate space to provide a 2.5m wide shared pathway facility with an acceptable safe clearance from the highway.

9.32 The safety of pedestrians and cyclists is considered to be of prime importance and outweigh any short-term biodiversity loss as a result of hedgerow removal. Moreover the provision of new hedgerow and new tree-planting would ensure that a key wildlife corridor is maintained and enhanced in the long-term.

9.33 Given the minimum requirements of the pathway, the importance of providing a safe and attractive route, and the proposed compensatory hedgerow and field-trees, it is considered that the proposal would be a practicable/pragmatic approach which seeks to compensate for its impact upon existing hedgerow to an acceptable degree. As such it is considered that the circumstances justify removal of an important hedgerow and that the proposed new hawthorn hedgerow would provide adequate compensation representative of the length of hedgerow to be lost. It is therefore considered the proposal complies with Policy GI6 of the CDLP in respect of hedgerows.

Loss of Trees

9.34 The submitted arboricultural report identifies 18 Individual Trees and 5 Tree Groups on the south-western side of Kingmoor Road. Of these 23 trees/tree groups; 8 are assessed as being Category A or B (i.e. trees with a high or moderate retention value likely to make a significant contribution to the locality for in excess of 20 years). The proposed scheme would retain all the Category A and B trees and the scheme design incorporates measures to minimise the effect upon these (e.g. use of no-dig design and provision of geotextile membrane over root areas). It is also proposed to remove 8 trees/tree groups; to compensate for this loss it is proposed to plant 13 new trees (Oaks, Limes, Field Maples and Beeches) within the proposed replacement hedgerow and which is considered acceptable.

Ecological Impact

9.35 An Ecological Desk Study (EDS) has been submitted in support of the application.

9.36 Bats: The EDS notes that while linear features such as hedgerows are known to often be utilised as commuting routes by bats, given the presence of woodland on either side of the road which offer higher foraging value, the existing hedgerows along Kingmoor Road are unlikely to represent a key flight-line. This highlights that two of the over-mature minor value trees (T4 and T9 - a beech and alder respectively) proposed to be felled have a number of rot holes, cracks and
crevices that have high bat roost potential. A detailed inspection of these and three other trees was subsequently undertaken by a Natural England bat licenced ecologist. Of the five trees with bat roosting potential surveyed, the surveyor concluded that three had negligible roosting potential and two had low potential (i.e. is not characteristic of bat usage - being too large or too shallow or too exposed. It is possible that bats may use these features as a transient roost or temporarily, in order to retreat from adverse weather conditions. It is unlikely that these locations would be used as an established roost). The survey report noted that “there was no evidence of bats or any suggestion of any secondary evidence, such as staining, smoothing or other such internal characteristics of bat roosts in any of the trees surveyed” and concluded that the removal of these trees (and their features) is unlikely to constitute an offence under the Wildlife and Countryside Act. However, it also notes that the trees to be lost do have some low potential features that, given time, may continue to rot and evolve into more suitable features and that the removal of the trees eliminates that possibility. Therefore it recommends provision of a number of bat boxes on site. The applicant proposes to install six bat boxes and which can be required by condition to be provided prior to the removal of any hedgerows or trees associated with the undertaking of the proposed development so as to ensure there is no reduction in potential bat roosting habitat prior to the establishment of the compensatory tree planting.

9.37 Breeding Birds: The hedgerow and associated standard trees proposed to be removed have high nesting potential for breeding birds. A condition is proposed restricting the timing of the removal of the hedgerows and trees and so as to ensure that there is no disturbance to breeding birds during the nesting season. The provision of new hedgerow and trees to the western side of the proposed route would provide suitable compensation for the loss of the hedgerow and trees and provide suitable habitat for nesting birds in the long-term.

9.38 Great Crested Newts (GCN): The EDS notes that recent previous studies have revealed a medium sized GCN population within 500m of the development site. The two ponds with excellent habitat suitability index ratings for GCNs within the 500m buffer lie approximately 130m (Pond 1 within Kingmoor Sidings Local Nature Reserve to the south-west) and 350m (Pond 3 in Kingmoor South Local Nature Reserve to the north-east). Given the scope of the works and their location the EDS concludes that further surveys are not necessary. A Great Crested Newt Risk Assessment and Working Method Statement has been submitted in support of the application. The risk assessment utilises Natural England’s Rapid Risk Assessment Tool and concludes that due to the location of the site relative to the known breeding ponds, the presence of suitable habitat close to the pond, and the presence of Kingmoor Road as a partial dispersal barrier, it is highly unlikely that GCN would be impacted on as a result of the proposed pathway and therefore it is considered unnecessary to undertake the construction works under license. However, given the presence of two breeding ponds within 500m it is considered possible that individual migrating GCN may be encountered during the construction phase. Consequently the Working Method Statement sets out precautionary and sympathetic working methods to avoid any potential impacts on GCN during the construction phase and establishes a protocol should an encounter with GCN occur. The implementation of these measures, which include the direct searching of refuges and soil stripping supervision, would further reduce potential impact of works on GCN. A condition is proposed requiring strict adherence to the Great Crested Newt Risk Assessment and Working Method Statement. Biodiversity Overview: In light of
the above, it is considered that subject to the provision of compensatory hedgerow, field trees and wildflower grassland mix the proposal would not have an adverse impact on protected species and nor would it lead to an overall loss of biodiversity. The proposal is therefore considered to comply with Policy GI3 of the CDLP.

**OTHER PLANNING CONSIDERATIONS**

**Amenity**

9.39 The proposed routing means that the proposed pathway would not be in proximity to existing residential dwellings. As such it is considered that usage of the proposed route would not adversely impact on the residential amenity of existing dwellings and complies with Policy CM5 of the CDLP.

**Crime Prevention**

9.40 The removal of the existing hedgerow would create open views of the proposed path from the public highway thus maximising natural surveillance and avoiding opportunities for concealment. Should the adjoining land be developed for residential purposes in the future, then the route would also be overlooked by residential dwellings. Consequently the proposed route and layout makes a positive contribution to creating a safe and secure environment and is thereby considered to comply with Policy CM4 of the CDLP.

**Lighting**

9.41 The route of the pathway is currently considered to be a rural link and, in common with other such routes (for example the shared-use footpaths/cycleways provided along Burgh Road, Moorhouse Road and Orton Road to the A689/CNDR), it is not considered appropriate to light it outside of the existing urban boundary.

**Public Rights of Way**

9.42 The proposed scheme retains and improves pedestrian access to existing public rights of way in the area. The proposal is therefore considered to comply with policy GI5 of the CDLP.

**Water Environment - Drainage & Flood Risk**

9.43 The proposed pathway would have a cross-slope of 2 to 2.5% to facilitate surface water run-off. It is proposed to discharge water to a combination of existing gullies and associated highway drains and to the adjacent field and replace and provide a number of additional gullies in the vicinity of the railway bridge underpass. The associated improved maintenance access to the downstream pipework would also address the known flooding/blockage issues beneath the railway bridge. The overall area of the proposed development is 0.8ha of which 0.2ha (i.e. 20%) would be impermeable. The majority of the proposed impermeable area would discharge to ground. Only 8% of the development area would be additional impermeable surfacing discharging to existing drainage systems. The LLFA has no objection. The proposal generally promotes infiltration at source and the applicant has demonstrated that the proposal would not increase flood risk in the area. It is therefore considered the proposal complies with Policies CC4 and CC5 of the CDLP.
Visual / Landscape Impact

9.44 The area to be developed sits within a ‘lowland’ landscape character area that comprises a mixture of urban fringe and farmland. The proposed pathway in parallel alignment to the existing road would be acceptable within the transitional character of the local landscape. This alignment would minimise the pathways footprint and along with the provision of replacement hedgerow would ensure it would have marginal visual impact in the long-term. Whilst the application would result in the loss of some Grade 3 agricultural land the 5m strip of land being lost is minor and would not detrimentally impact on best and most versatile agricultural land. It is considered that the proposed pathway would be in-keeping with the existing landscape character, would not have an unacceptable visual impact and therefore complies with Policies SP6 and GI1of the CDLP.

Site visit

9.45 The Parish Council and local County Councillor have requested a site visit. It is considered the requests would not meet the County Council’s guidelines for site visits; the proposal is not contentious or particularly complex, the impact is not difficult to visualise or assess from the plans and supporting information, there would not be a substantial benefit from a visit because of the scale or nature of the proposal which is a relatively small extension to an existing building to improve recycling operations and reduce impacts on the environment.

9.46 The Parish Council has also expressed concerns that the costs of the scheme would increase if compulsory purchase powers have to be used to obtain the land required for the development and question whether the project is compliant with procurement regulations and law. These are not considered to be land use planning matters.


10.0 CONCLUSION

10.1 The NPPF and Policy IP2 of the CDLP seek to give priority to pedestrian and cyclist movements. The NPPF seeks local planning authorities to exploit opportunities for the use of sustainable transport modes and to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

10.2 This length of existing road is currently unattractive to, and potentially dangerous for, cyclists and pedestrians. The shared footway/cycleway would be a positive development that would improve the safety of pedestrians and cyclists using this route and help promote an increase in cycling and pedestrian movements in the area. As such it would thus meet key sustainability objectives.

10.3 The submitted traffic modelling indicates that there is sufficient capacity on the existing roads to accommodate the proposed scheme. Whilst it would marginally increase average journey times of road traffic movements during peak hours, this delay would be minimal. CCC Local Highway Authority has no objection to the proposals. As such it is considered the proposal would not compromise highway safety for vehicles using the highway but would significantly improve pedestrian and cycle safety. Therefore, it is concluded that there are no local circumstances
or potential adverse highway impacts that would outweigh the strategic objectives of Local Development Plan Policy and the NPPF in respect of transport matters.

10.4 The proposed route has been designed in a way to have minimum impact on the environment and would provide adequate compensation for the hedgerow and trees that would need to be removed and some enhancement that would, once established, be of equal if not greater value than that existing. The development of the western/southern side of Kingmoor Road is considered to have a lesser environmental impact than the development of the route on the eastern/northern side of the road due to the presence of Kingmoor Local Nature Reserve.

10.5 In summary, it is considered that the proposed development is in accordance with the policies of the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably be mitigated. Furthermore, any potential harm to interests of acknowledged importance is likely to be negligible and would be outweighed by the benefits of the development. It is therefore recommended that planning permission be granted subject to the conditions set out in Appendix 1 to this report.

Dominic Donnini
Corporate Director Economy and Highways

Contact:
Mr Edward Page, Kendal,
Tel: 01539 713 424

Background Papers: Planning Application File Reference No. 1/16/9009

Electoral Division Identification:
Belah ED - Mr A Toole (Pre-Election); Mr G Ellis (Post-Election)
Dalston and Burgh ED - Mr T Allison
Proposed Planning Conditions

Time Limit for Implementation of Permission

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

Approved Scheme

2. The development hereby permitted shall be carried out in accordance with the following:

   a. The submitted Full Planning Application Form – dated 21 October 2016;
   c. Drawing No. KCW-CAP-VES-00-DR-V-0001 - Tree Constraints Plan;
   d. Drawing No. KCW-CAP-HGN-00-DR-C-0022-S4-Rev.P01 - Site Plan - Red Line Boundary;
   e. Drawing No. KCW-CAP-HGN-00-DR-C-0023-S4-Rev.P02 - Site Plan - General Arrangement;
   f. Drawing No. KCW-CAP-HGN-00-DR-C-0017-Rev.P01 – Cross Sections at Rail Bridge;
   g. Drawing No. KCW-CAP-HGN-00-DR-C-0024-S4-Rev.P01 - Typical Details (Sections);
   h. Drawing No. KCW-CAP-ELS-00-DR-L-0001-S2-Rev.P03 - Proposed Planting Plan and Details;
   i. Drawing No. KCW-CAP-HDG-00-DR-D-0501-Rev.P01 - Drainage Layout - Sheet 1 of 3;
   j. Drawing No. KCW-CAP-HDG-00-DR-D-0502-Rev.P01 - Drainage Layout - Sheet 2 of 3;
   k. Drawing No. KCW-CAP-HDG-00-DR-D-0503-Rev.P01 - Drainage Layout - Sheet 3 of 3;
   l. Drawing No. KCW-CAP-HKF-00-DR-C-11010S2-Rev.P02-- Kerbs and Footways - Sheet 1 of 3;
   m. Drawing No. KCW-CAP-HKF-00-DR-C-1102-S2-Rev.P02 - Kerbs and Footways - Sheet 2 of 3;
   n. Drawing No. KCW-CAP-HKF-00-DR-C-1103-S2-Rev.P03 - Kerbs and Footways - Sheet 3 of 3;
   p. The details or schemes approved in accordance with the conditions attached to this permission.

   Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.
FURTHER INFORMATION REQUIRED TO BE SUBMITTED

Lighting

3. No additional street lighting shall be installed on site until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include details of:

   a. how the lighting has been sited and designed to ensure it does not adversely impact upon ecological interests and the wider landscape;
   b. how it takes into account Tables 1 & 2 of the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light GN01:2011 regarding Environmental Zones and associated recommended limitations;
   c. lighting column heights;
   d. light sources (lamp type) along with their proposed level of brightness/luminance in LUX, colour rendition values and energy efficiency;
   e. Any cowls, hoods, shades or baffles that may be needed to control light spill and glare, including their number, fixing, dimensions and finish;
   f. plans showing the location/position of all new lighting units and their beam orientation (and illustrating proximity to the site boundary, the highway, any nearby residential properties and any existing/proposed screening);
   g. overspill contours (i.e. an isolux diagram) of maximum, minimum and average levels of illuminance (measured in lux) in the horizontal and vertical plane and overspill beyond the site boundary;
   h. measures for reducing light intrusion, glare and skyglow.

Once approved the scheme shall be implemented in full.

Reason: To require further detail not submitted with the application and to ensure provision of adequate lighting whilst minimising light spillage and reducing the potential impact of light pollution on the Kingmoor Nature Reserve.

PRELIMINARIES / RESTRICTIONS

Timing of Provision of Bat Enhancement/Mitigation

4. The bat boxes specified on Drawing No. KCW-CAP-ELS-00-DR-L-0001-S2-Rev.P03 - Proposed Planting Plan and Details shall be provided in the locations indicated on this plan prior to the removal of any hedgerows or trees.

Reason: To provide ecological enhancement and mitigation prior to the construction of the pathway to ensure there is no reduction in potential bat roosting habitat prior to the establishment of the compensatory tree planting.

Timing of Hedgerow and Tree Removal – Protection of Breeding Birds

5. No trees, bushes or hedges within the development site shall be removed, lowered or pruned during the bird nesting season between 1 March and 31 August inclusive. If areas cannot be cleared outside this time, they should be checked for breeding birds in accordance with Natural England’s Guidance and, if appropriate, an exclusion zone set up. No work shall be undertaken within the exclusion zone until birds and any dependent young have vacated the area.

Reason: To ensure appropriate protection for breeding birds under Section 1 of the Wildlife and Countryside Act 1981.
Vegetation Clearance Methodology and Precautionary Measures to Avoid Impact on Great Crested Newts


Reason: To ensure appropriate protection for Great Crested Newts in line with Section 1 of the Wildlife and Countryside Act 1981.

CONSTRUCTION PHASE

Highway Cleanliness

7. Measures shall be employed to ensure that no mud or other debris from the site is tracked onto the public highway throughout the construction phase of the development.

Reason: To ensure the safety of the public on the highway.

Implementation of Planting

8. The proposed hedgerow and tree planting shown on Drawing No. KCW-CAP-ELS-00-DR-L-0001-S2-Rev.P03 - Proposed Planting Plan and Details shall be implemented within the first available planting season following completion of the construction of the pathway hereby approved.

Reason: In the interest of the amenity of the local area and to ensure development is adequately screened and to comply with policy.

POST-DEVELOPMENT

Replacement Planting

9. Should any part of the replacement hedgerow or any of the replacement trees die, become damaged, diseased or be removed within the duration of 5 years from the completion of the development then it shall be replaced during the next available planting season (October to March inclusive).

Reason: In the interest of the amenity of the local area and to ensure development is adequately screened and to comply with policy.
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Application No: 1/17/9001
District: Carlisle

Applicant: Mr Charles Riddell
Cumbria Waste Management Ltd
Unit 5A, Wavell Drive, Carlisle

Parish: Rockcliffe Parish Council

Received: 17 March 2017

PROPOSAL: Full planning application with accompanied updated topics of Environmental Statement submitted with 1/00/9005 to amend Condition No 1 to extend the life of the permission from 31 October 2020 to 31 October 2039; condition No 41 amend the approved plans to undertake the deposit of waste in different phases and to different pre-settlement contours from 44m AOD to 45m AOD

LOCATION: Hespin Wood Resource Park & Landfill Site, Todhills, Carlisle, CA6 4BJ
1.0 RECOMMENDATION

1.1 That having first taken into consideration the updated environmental information, as defined in the Town & Country Planning (Environmental Impact Assessment) Regulations 2011, submitted in connection with the application, planning permission be Granted subject to the conditions set out in Appendix 1 to this report.

2.0 THE PROPOSAL

2.1 Full planning permission is sought to extend the life of planning permission 1/00/9005 to allow land raising operations to continue until 31 October 2039 and to increase the pre-settlement contours from 44m AOD to 45m AOD at the crown of the landfill by the importation of an additional 240,000m$^3$ of waste materials. The increase in pre-settlement contours would create steeper slopes to the raised landfill.

2.2 The re-profiling and changes to operations have come about through recent changes on Hespin Wood Resource Park. Planning permission was granted for the Mechanical Biological Treatment Plant (MBT) (ref: 1/08/9031, approved 24 April 2009) on the south western part of the landfill site. The implementation of this permission affected the deliverability of the approved profiling and contours of the landfill site approved under planning permission 1/00/9005. The MBT plant in affect reduced the capacity of the landfill and prevented the approved profiling/contouring scheme for the landfill site from being achieved. The eastern part of the landfill has also been affected by the upgrading of the M6/A74 and the construction of the All Purpose Road (APR), which incorporated the eastern part of Hespin Wood site. With these alterations affecting the approved contours and profiling of the landfill site as approved under 1/00/9005, a revised scheme has designed taking into account the changes which have been undertaken since planning permission was granted in 2000.

2.3 HGV access to Hespin Wood would remain as existing from the A689, C1015, C1022 and U1070. There is no proposed increase in HGVs to/from the site, parking or manoeuvrability within the site.

2.4 Operating hours would remain as existing between 07.00 to 19.00, 7 days per week including Bank and Public Holidays.

2.5 All other activities including the green waste composting, materials recovery facility etc on Hespin Wood Resource Park would remain as existing and would not be affected by the reprofiling of the landfill site.

3.0 SITE DESCRIPTION

3.1 Hespin Wood Resource Park is a mixed use Sui Generis site which operates as landfill site, Mechanical Recycling Facility (MRF), Green Waste Composting, aggregates recycling, location of the northern Mechanical Biological Treatment Plant (MBT) and more recently concrete batching plant.

3.2 Hespin Wood is located to the north of Carlisle close to the M6 motorway. Access to the site is from the All Purpose Road (APR), the C1022 and links to A689 at Parkhouse roundabout which connects to the strategic road networks of M6 and A595(T).
3.3 Hespin Wood occupies a rural location approximately 7km from Carlisle City Centre. To the east of the site is woodland strip, ARP road, M6 and the settlement of Todhills beyond; to the south is U1070 which links Todhills and Rockcliffe, this forms the access road to the site and the strategic road network. There is a woodland area which separates the site from the highway. Blackrigg bungalow is south west of the site; to the west of the site is west coast railway line and a woodland area; to the north of the site is a woodland area and agricultural fields.

4.0 SITE PLANNING HISTORY

4.1 Hespin Wood was established in the mid 1970’s originally at Hell’s Hole for the disposal of controlled tipping of domestic, trade and industrial waste (Ref: 1/76/0989, approved 16 January 1979). The main landfill operations received permission in 1979 for controlled tipping (Ref: 1/79/0113, approved 18 May 1979). The main landfill activities are for continuation of waste disposal and amendment of treatment, phasing, levels, reclamation and after-uses (Ref: 1/00/9005, approved 6 September 2000).

4.2 Hespin Wood has established itself into a Waste Resource Park which has a number of different elements namely Mechanical Biological Treatment Plant (MBT), Mechanical Recycling Facility (MRF), green waste composting, aggregate recycling, electricity generation compound, leachate plant and asphalt plant. There are extensive planning permissions relating to the activities on Hespin Wood.

5.0 PLANNING POLICY

5.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.

5.2 The Cumbria Minerals and Waste Development Framework’s (CMWDF) Core Strategy 2009-2020 (CS) and Generic Development Control Policies 2009-2020 (GDCP) both adopted in April 2009. The key policies relevant to the determination of this planning application are considered to be:

- Policy CS 1 - Sustainable Location and Design
- Policy CS 5 - Afteruse and Restoration
- Policy CS 8 - Provision for Waste
- Policy CS 9 - Waste Capacity
- Policy DC1 - Traffic and Transport
- Policy DC 2 - General Criteria
- Policy DC 3 - Cumulative Environmental Impacts
- Policy DC 5 - Criteria for Landfill
- Policy DC 10 - Biodiversity and Geodiversity
- Policy DC 12 - Landscape
- Policy DC 13 - Flood Risk
- Policy DC 14 - The Water Environment
- Policy DC 16 - Afteruse and Restoration

5.3 The Cumbria Minerals and Waste Local Plan 2015-2030 was submitted to the Secretary of State for examination by an independent Inspector on 9 September
2016. Hearing sessions for the examination were held between 29 November 2016 and 16 December 2016. Following discussion at the Hearing sessions, a ‘Table of Main Modifications to the Plan’ has been prepared, which will be issued for a six week public consultation at the end of March 2017. Having considered the responses to this consultation, the Inspector will send her final report to the County Council. As the emerging plan progresses, greater weight can be attached to the policies in the decision making process.

5.4 The Carlisle District Local Plan 2015-2030 (CDLP) - adopted 8 November 2016. The key policies relevant to the determination of this planning application are considered to be:

- Policy SP1 - Sustainable Development
- Policy SP6 – Securing Good Design
- Policy G1 - Landscape

5.5 The National Planning Policy Framework (NPPF), which was published on 27 March 2012, and the national online Planning Practice Guidance (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF and/or PPG are considered to be relevant to the determination of this application:

- Paragraphs 6-10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Delivering Sustainable Development
  - Section 7 - Requiring good design
- Paragraphs 186-187 - Decision Taking

5.6 National Planning Policy for Waste (October 2014) sets out the Government’s ambition to work towards more sustainable and efficient approach to resource use and management. Delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy. The National Planning Policy for Waste should be read in conjunction with the NPPF, the Waste Management Plan for England and National Policy Statements for Waste Water and Hazardous Waste.

5.7 The Waste Framework Directive 2008/98/EC introduced new provisions in order to boost waste prevention and recycling as part of the waste hierarchy.

5.8 The Waste (England and Wales) Regulations 2011 requires everyone involved in waste management to take in the transfer of waste all reasonable measures to apply the waste hierarchy.

5.9 Government Review on Waste Policy in England 2011 sets out the objective of aiming for a zero waste economy in which material resources are re-used, recycled or recovered whenever possible and only disposed of as the option of last resort. There is a clear requirement that materials are re-used, recycled or recovered where possible and only disposed of as a last option. There is a clear requirement to drive the treatment of waste up the hierarchy from landfill. The Government Review provides support for Energy from Waste facilities such as that proposed, not only in the context of waste management but also having regard to low carbon/renewable energy provision and climate change.
5.10 Waste Management Plan for England (2013) provides an analysis of the current waste management situation in England and sets out how Government Policy would support the implementation of the revised WFD.

6.0 CONSULTATIONS AND REPRESENTATIONS

6.1 Carlisle City Council Planning Department: No objection, subject to the recommendation outlines set out in the Extended Phase 1 Habitat Survey being implemented.

6.2 Carlisle City Environmental Health Department: No objection subject to consideration given to minimise any issues caused by noise, vibration and dust.

6.3 Natural England: No objection. In view of the site’s history the area in question and the anticipated quality of the restored land affected no detailed comments would be raised with regards to soils and reclamation arising from the proposal.

6.4 Environment Agency: No objection.

6.5 Carlisle Airport: The proposal has been examined from an aerodrome safeguarding aspect and does not conflict with the safeguarding criteria.

6.6 Civil Aviation Authority: No safeguarding objection.

6.7 CCC Ecology: No objection.

6.8 Fire Officer: No objection.

6.9 Rockcliffe Parish Council: No response received.

6.10 CCC Local Highway Authority: No objection. The proposed increase in operational timescales to the operations would not see any increase in vehicle movements to the site and as such there would be no significant impact on the highway network.

6.11 CCC Lead Local Flood Authority: No objection. Hespin Wood is located within Flood Zone 1. It is noted that there are small pockets of surface water flooding within Hespin Wood. It is not anticipated that surface water flooding would have a significant effect on the existing site. It is noted that the Flood Risk Assessment considers the restoration of the site and will reduce run-off rates. However it is considered the increase in gradients may increase the velocity of run-off which is not considered to be a significant issue as the surface water run-off would ultimately flow into Peter Sike which discharges into the Esk Estuary and minor increase in run-off would negligible.

6.12 The application has been advertised in the local press and by site notice on the site. Neighbouring properties and the local county councillor were also notified.

6.13 One letter of representation has been received raising Concern to the number of HGVs accessing the site and the state of the roads which include All Purpose Road, C1022 and A689.

7.0 PLANNING ASSESSMENT

7.1 The key planning issues relevant to the proposed schemes are considered to be: policy context; need for continuation of landfill; traffic and impact on the highway;
landscape and visual impact; biodiversity; noise; dust; other considerations with regards to comments from consultations and representations.

Policy Context

7.2 The proposed continuation of operation at Hespin Wood Landfill Site has been considered against National and Local Planning Policies and Guidance.

7.3 Cumbria Minerals and Waste Local Plan Core Strategy (CS) and Development Control (DC) policies (Adopted 23 April 2009). Policy CS1 (Sustainable Location and Design) requires minimisation of minerals and waste road miles. Hespin Wood is located close to the strategic road network and is located close to Carlisle where the main source of waste is generated; Policy CS5 (Afteruse and Restoration) requires the best practicable measures to secure most sustainable objectives for the environment and economy. The scheme would see the site restored to woodland and heath land; Policy CS8 (Provision for waste) requires for Cumbria to deal with its own waste. The continuation of landfilling at the site would retain a much needed resource to the area; Policy CS9 (Waste Capacity) requires 2 million cubic metre of landfill capacity in addition to existing void space during the Local Plan period. The proposed continued provision of landfill space and increase in waste capacity complies with the Local Plan requirements for providing landfill void space.

7.4 The following policies of the CMWLP are relevant: Policy DC1 (Traffic and Transport) requires minerals and waste road miles to be minimised; Policy DC2 (General Criteria) requires development to consider noise, dust and emissions; DC3 (Cumulative Environmental Impacts) requires consideration of local communities, environmental impacts, vehicle movements and economy; DC10 (Biodiversity and Geodiversity) requires consideration of impacts on locally important biodiversity and geological conservation; Policy DC12 (Landscape) requires development to be compatible with the distinctive characteristics and features of Cumbria’s landscape; DC13 (Flood Risk) requires developments to be required in lowest probability of flooding; DC14 (The Water Environment) requires development not to have an adverse impact on quantitative or qualitative effects on the water environment; DC16 (Afteruse and Restoration) requires a detailed restoration scheme to be submitted.

7.5 The Carlisle District Local Plan 2015-2030 (CDLP) - adopted 8 November 2016. Policy SP1 (Sustainable Development) requires development to work proactively with applicants and communities to jointly find solutions which mean that proposals can be approved wherever possible. Policy SP6 (Securing Good Design) requires development to ensure there is no adverse effect on residential amenity, avoid loss of environmental features, include landscaping schemes; Policy G1 – Landscape requires development to be considered with Cumbria Landscape Character Toolkit.

7.6 National Planning Policy for Waste (October 2014) sets out the Government’s ambition to work towards more sustainable and efficient approach to resource use and management. Delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy and helping to secure the re-use, recovery or disposal or waste without endangering human health and without harming the environment. The National Planning Policy for Waste should be read in conjunction with the NPPF, the Waste Management Plan for England and National Policy Statements.
7.7 The Waste Framework Directive 2008/98/EC introduced new provisions in order to boost waste prevention and recycling as part of the waste hierarchy. It requires waste to be managed without endangering human health and harming the environment, and in particular without risk to water, air, soil, plants or animals, without causing a nuisance through noise or odours, and without adversely affecting the countryside or places of special interest.

7.8 The Waste (England and Wales) Regulations 2011 requires everyone involved in waste management to take in the transfer of waste all reasonable measures to apply the waste hierarchy.

7.9 Government Review on Waste Policy in England 2011 sets out the objective of aiming for a zero waste economy in which material resources are re-used, recycled or recovered whenever possible and only disposed of as the option of last resort. There is a clear requirement that materials are re-used, recycled or recovered where possible and only disposed of as a last option. There is a clear requirement to drive the treatment of waste up the hierarchy from landfill. It is clearly acknowledged that some waste there are no clear alternative other than landfill and provision is required until such time as alternative processes can be designed to eliminate landfilling.

7.10 Waste Management Plan for England (2013) provides an analysis of the current waste management situation in England and sets out how Government Policy would support the implementation of the revised WFD.

Need

7.11 Hespin Wood is allocated in Cumbria Minerals and Waste Local Plan with significant void space remaining but with a short remaining life span until 2020. The following table is extracted from the Cumbria Minerals and Waste Local Plan.

<table>
<thead>
<tr>
<th>Site</th>
<th>Type</th>
<th>Voidspace (m³)</th>
<th>Closure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bennett Bank</td>
<td>Non-inert</td>
<td>84,434</td>
<td>2017</td>
</tr>
<tr>
<td>Hespin Wood</td>
<td>Non-inert</td>
<td>1,579,253*</td>
<td>2020</td>
</tr>
<tr>
<td>Lillyhall</td>
<td>Non-inert</td>
<td>943,912</td>
<td>2029</td>
</tr>
<tr>
<td>Flusco</td>
<td>Non-inert</td>
<td>933,497*</td>
<td>2032</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>Non-inert</td>
<td><strong>3,541,096</strong></td>
<td></td>
</tr>
<tr>
<td>Derwent Howe</td>
<td>Inert</td>
<td>557,000</td>
<td>2016</td>
</tr>
<tr>
<td>Roan Edge</td>
<td>Inert</td>
<td>212,000</td>
<td>2016[1]</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>Inert</td>
<td><strong>769,000</strong></td>
<td></td>
</tr>
</tbody>
</table>

7.12 Hespin Wood provides the only landfill facility in the north of the County. The nearest alternative facility is Flusco (Penrith) which is 25 miles south of Hespin Wood. Whilst recycle/reuse should and continues to be encouraged there is still a need for the provision of non-inert landfill capacity in the county, until such time an alternative technology is established/available. Cumbria Waste Needs Assessment (WNA) (2015) identifies that there will be insufficient non-inert landfill capacity in the County, to the end of the Local Plan period of 2030, unless Hespin Wood receives a time extension. This proposal conforms with the WNA
and therefore with Policy CS8 of the Cumbria Minerals and Waste Local Plan Core Strategy.

**Waste Capacity**

7.13 The remaining approved (ref: 1/00/9005) landfill capacity on Hespin Wood is 1.53 million m$^3$. It is anticipated that 25% of the approved airspace would be used for cell formation, daily cover, capping and restoration leaving a revised capacity of around 1.15 million m$^3$. With the amendment to the site undertaken in relation to the MBT and realignment of the M6 and APR road, this has resulted in revised changes to the pre-settlement contours would provide a new capacity gain from 1.15 million m$^3$ to 1.39 million m$^3$ (increase of 240,000 m$^3$).

**Increase in Life of Landfill Provision**

7.14 Planning permission 1/00/9005 allowed for disposal of waste at Hespin Wood until 31 October 2020. Current rates of fill at Hespin Wood are around 60,000 m$^3$ per annum. At the projected rate of infilling it is anticipated that it would take up to 23 years to complete Hespin Wood to its approved levels. The application seeks to extend the life of the landfill site to 2039 allowing an additional 19 years on the already approved 31 October 2020 cessation date, overall giving 23 years remaining capacity, with a remaining two years for restoration including capping and soil replacement of the cap.

**Traffic and Impact on the Highway**

7.15 CMWDF Development Control Policy DC 1 (Traffic and Transport) advises that proposals for new Minerals and Waste Developments should demonstrate that they are well related to the strategic road network, have potential for rail or sea transport and sustainable travel to work and are located where they minimise operational “minerals and waste road miles”.

7.16 Hespin Wood provides a much needed landfill capacity facility for the north of the County. The nearest facility to Hespin Wood is Flusco, Penrith which is approximately 25km south.

7.17 The application site would be accessed from the All Purpose Road (APR) which connects the C1015/C1022 and onto A689 (Carlisle Northern Development Route – CNDR) and the strategic highway network for Cumbria and direct links onto the M6 motorway. The CNDR generates on average 10,000 vehicles per day of which approximately 1500 are HGV’s.

7.18 Currently Hespin Wood has no restrictions on the number of vehicles which can enter and leave the site. The proposed continuation of operations would not generate any additional traffic movement over and above current operations albeit over an extended period of time.

7.19 CCC Local Highway Authority has raised no objection to the extended time limit to the landfill operations as there would be no increase in vehicle movements. It is therefore considered the development would comply with Policy DC1 of CMWLDF.

**Landscape and Visual Impact**

7.19 CMWDF Development Control Policy DC 12 (Landscape) requires development
to be compatible with the distinctive characteristics and features of Cumbria’s landscape and Carlisle District Local Plan (adopted 8 November 2016) Policy G1 – Landscape requires development to be considered with Cumbria Landscape Character Toolkit.

7.20 Hespin Wood Resource Park lies in Cumbria Landscape Character Guidance 2c Coastal Plain. The characteristics of Coastal Plain are predominately flat and slightly undulating coastal plain; long and narrow fields; shallow rivers and watercourses, scarce tree cover and frontiers of the Roman Empire. This is mainly flat coastal plain which is largely based on fluvial drift marine alluvium and undulating boulder clay on Triassic mudstone and sandstone.

7.21 The landscape, visual and cumulative landscape and visual effects of the proposed development have been assessed. In terms of landscape character, the development is considered to be acceptable. The effects upon wider landscape character are considered to be acceptable; given this is an existing feature within the landscape and the limited net impact which would result from a marginal increase in height.

7.22 Potentially affected visual receptors have been identified. The largest magnitude of change would be experienced by motorists on the M6/A74 who are not considered to be sensitive receptors. Visual impacts experienced by residents of the Todhills to the west would be limited by distance and tree cover. Visual receptors in sensitive locations would not be affected to any notable extent by the marginal increase in height of the pre-settlement contour being 1m on the previously approved profile, given the distance to the site, and the visual context of existing landscape character.

7.23 Scale and massing of the revised shape of the landfill site would not have any major impacts outside the site. The main difference would be the site would be slightly more domed due to the proposed steeper side batters due to the reduction in site area.

7.24 The cumulative landscape and visual effects are considered to be already present and any effects arising from the proposed 1m increase in the height of the landfill would not result in any significant impact. It is therefore considered the development complies with Policy DC12 of the CMWLDF and Policy G1 of the Carlisle District Local Plan 2001-2016.

Biodiversity

7.25 CMWDF Development Control Policy 10 (Biodiversity and Geodiversity) advises that proposals for new minerals and waste developments that would have impacts on locally important biodiversity and geological conservation assets, as defined by the Core Strategy will be required to identify their likely impacts on, and also their potential to enhance, restore or add to these resources and to functional ecological and green infrastructure networks. Development must demonstrate the need for, and benefits of the development and the reasons for locating the development in its proposed location, and demonstrate, appropriate measures to mitigate any adverse effects (direct, indirect, cumulative). Where impacts cannot be avoided or mitigated, appropriate compensatory measures should be identified and secured and must be compatible with the characteristics and features within Cumbria.

7.26 Carlisle City Council District Local Plan Policy CP2 (Biodiversity) advises
developments should not harm the integrity of the biodiversity resources as
judged by key nature conservation principles and proposals should seek to
conserve and enhance the biodiversity value of the areas which they affect.

7.27 The proposed development has been assessed as to its likely impact on flora,
fauna and habitats including direct impacts on protected species on the site such
as great crested newts and other species and sensitive receptors during
construction and operational development.

7.28 Hespin Wood is located 7km north of Carlisle City Centre. Hespin Wood is not
located within any designated European, National or Local protected sites. The
proposed development has been assessed on the ecological features of the
application site itself and upon designated nature conservation sites within 2 km.
Hespin Wood does lie 2.4km east of Special Protection Area (SPA) of Upper
Solway Flats and Marshes; RAMSAR of Upper Solway Flats and Marshes; Special
Area of Conservation (SAC) of Solway Firth and Site of Special Scientific
Interest (SSSI) of Upper Solway Flats and Marshes.

7.29 The planning application has been accompanied by a Phase 1 Habitat Survey
assessing the likely impact on flora, fauna and habitats including direct impacts
on protected species on the site such as great crested newts and other species
and sensitive receptors during operational development.

7.30 There are no confirmed protected species identified on Hespin Wood landfill site.
Hespin Wood screened by a tree belt which provides foraging habitat for bats
and birds. It is not proposed to remove any trees during operations thereby there
would be no impact on bats from the operations.

7.31 Natural England is satisfied that the proposed alterations would not have any
impact on European, national and locally designated sites. Any views received
from the County Council’s ecological advisor will be reported on the update
sheet.

7.32 The proposal is for an extension of time to an existing site and a marginal
increase in height of final landform. It would not adversely affect any ecological
interests and would comply with Policy DC10 of the CMWLP and Policy CP2 of
the Carlisle City Council District Local Plan.

Environmental/Other Concerns

7.33 CMWDF Development Control Policy 2 (General Criteria) advises that proposals
must, where appropriate, demonstrate that impacts associated with noise and air
quality (from dust or emissions). As part of the assessment consideration must
be given to the proximity to sensitive receptors including surrounding land uses
and protected species, the extent to which adverse effects can be controlled or
visual or acoustic screening, hours of operation and HGV impacts/routing.

7.34 Noise: The nearest noise sensitive residential property is located 260m east of
Hespin Wood (Bents Farm). There are current background noise levels from the
operation of the land raise site, the M6 motorway and operations from Hespin
Wood complex. Noise levels would not be increased due to the continuation of
operations than what are currently encountered and therefore the proposal is
acceptable for the purposes of Policy DC2 of the CMWLP.

7.35 Dust: Dust from the continuation of landfilling could arise during periods of dry
and windy weather. A dust suppression system is in operation for times when
dust is a problem and this would remain insitu and controlled by condition. The
proposal is therefore acceptable for the purposes of Policy DC2 of the CMWLP.

7.36 Litter: Litter from the site may migrate off site during periods of high winds. A
condition is attached to planning permission 1/00/9005 requiring equipment to be
installed and used to ensure that windblown litter does not escape from the site.
A similar condition is proposed. Consequently it is considered that the proposal is
acceptable for the purposes of Policy DC2 of the CMWLP.

7.37 Vermin/Flies: Vermin and flies are considered to be a nuisance within any landfill
site and can travel and affect the amenities of local resident’s up to 2km from the
landfill site. An environmental management scheme would require details to be
provided of how vermin and flies would be dealt with from the site and would be a
matter for the Environmental Permit issued by the Environment Agency.

7.38 Emissions: Carlisle City Council currently has six Air Quality Management Areas
(AQMAs) although Hespín Wood is not located within any of them. The nearest
AQMA is A7 which runs from Hardwicke Circus to Kingmoor A689. There are
currently emissions from HGV’s operating from Hespín Wood and to a limited
degree from the gas flare stacks associated with electricity generation from
landfill gas. However, the main source of emission discharge in the area is from
the adjacent M6/A74 motorway. It is therefore considered that the proposal would
not generate any greater emissions than present and therefore would be
acceptable for the purposes of Policy DC2 of the CMWLP.

7.39 Vibration: The nearest sensitive receptor is 260m south of Hespín Wood. The
nearest public footpath no 128005 is approximately 1km north west of Hespín
Wood. It is considered there would be no impacts associated with vibration and
therefore the proposal is acceptable for the purposes of Policy DC2 of the
CMWLP.

7.40 Hours of operation: Hespín Wood currently landfill operates between the hours of
07.00 to 19.00 7 days a week. The hours of operations are proposed to remain
as existing and are considered acceptable.

7.41 Historic Environment: The proposed increase in height and extension to the
period for tipping would not have any impact on the historic environment or the
setting of any Listed Building. The nearest Listed Building is Floristonrigg which
is located 550m north of the landfill site. Consequently it is considered that the
proposal is acceptable for the purposes of Policy DC11 of CMWLDF.

7.42 Flood Risk: Hespín Wood does not lie within a designated flood zone. However
due to the size and nature of the development the proposal has been
accompanied by a Flood Risk Assessment. There is no proposal to change the
existing surface water management system as this was able to cope with impacts
of Storm Desmond 2015 and did not have any flooding impact on adjacent land.
The Environment Agency have raised no objections to the proposed continued
operation. CCC Lead Local Flood Authority has raised no objection to the revised
contours. Consequently it is considered that the proposal is acceptable for the
purposes of Policy DC13 of the CMWLP.

Carlisle City Council Environmental Health Department raise no objection subject
to consideration given to minimise noise, vibration and dust.
Site Restoration

7.43 Restoration of the site would include heathland and woodland. The site restoration has not been amended from the approved scheme in 2000 and would still be appropriate to the proposed revised landform.

Other Considerations

7.44 Impact on the amenities of local residents: The continued operations of Hespin Wood would have an impact on the amenities of local residents for an additional 18 years on the already consented timescale most particularly from the continuation of HGV movements on the highway. However, those impacts are considered to be not so great to make the development unacceptable or can be minimised by the imposition of conditions set out in the recommendation.

7.45 Impact on highway of HGVs: The proposed increase in the life of the permission would have an impact on the highway which has previously been assessed until October 2020 due to the continued numbers of HGV’s using the highway. The impact of an additional 19 years on the existing activities is considered to be a medium scale impact. The Local Highway Authority has raised no objection to the extended time limit to the landfill operations as there would not be any increase in vehicle movements. Planning permission 1/02/9023 “extension to existing generation/flare compound” provides for the management of landfill gas and electricity generators; the permission runs in parallel with planning permission 1/00/9005 and therefore separate planning permission would be required to extend the life of the generation/flare compound.

7.46 One letter of representation has been received expressing concern to the impacts of HGVs on APR, C1022 and A689. The APR runs parallel with the M6/A74 and provides an alternative link road between Carlisle and Gretna. The road was upgraded as part of the M6/A74 improvements. The section of road between Hespin Wood and the junction of the C1022 was specifically designed and suitably constructed to allow HGVs to access Hespin Wood and by-passing the village of Rockcliffe. The APR, C1022 and A689 are identified as part of the strategic highway network for HGVs within the County. These roads are designed and maintained as part of the strategic highway network for the Cumbria and are considered acceptable to serve the site.

Human Rights

7.47 The Human Rights Act 1998 requires the County Council to take into consideration the rights of the public under the European Convention on Human Rights. Article 8 of the Convention provides that everyone has the right to respect for his private life and home save for interference which is in accordance with the law and necessary in a democratic society in the interests of, amongst other things, public safety, the economic wellbeing of the country or the protection of the rights and freedoms of others. Article 1 of Protocol 1 provides that an individual’s peaceful enjoyment of his property shall not be interfered with save as necessary in the public interest and subject to conditions provided for by law. For any interference with these rights to be justified the interference needs to be proportionate to the aims that are sought to be realised. The County Council has a duty to consider the policies of the development plan and to protect the amenities of residents as set out in those policies.

7.48 The proposal would have a limited impact on the visual, residential and
environmental amenity of the area but it is considered that those impacts would be insufficient to interfere with the rights of the applicant and satisfactory controls could be imposed to protect the amenities of the most affected residents. The impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1) would be minimal and proportionate to the wider social and economic interests of the community and could be satisfactorily controlled by planning conditions.

8.0 CONCLUSION

8.1 The proposed time extension and increase in levels at Hespin Wood Landfill site would mean the site could continue to provide a much needed waste management facility in the north of the County. The continuation of landfill operations complies with Cumbria Waste Needs Assessment (2015) which identifies a continued need for a non-inert landfill facility at Hespin Wood.

8.2 The proposed continuation of landfilling at Hespin Wood also complies with the policies of both Cumbria County Council’s Minerals and Waste Local Plan and Carlisle City District Local Plan.

8.3 The main areas of concern with regards to traffic and transport, landscape and visual impact, biodiversity and environmental considerations could be controlled by condition and under the control of the Environmental Permit issued by the Environment Agency.

8.4 In summary, it is considered that the proposed development accords with the policies of the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably by mitigated. Furthermore, any potential harm to interests of acknowledged importance is likely to be negligible and would be outweighed by the benefits of the development. It is therefore recommended that planning permission be granted subject to conditions as set out in Appendix 1.

Dominic Donnini
Corporate Director Economy and Highways

Contact: Mrs Jayne Petersen MA RTPI, Kendal,
Tel: 01539 713549; Email: jayne.petersen@cumbria.gov.uk

Background Papers: Planning Application File Reference No. 1/17/9001; 1/00/9005; 1/79/0113

Electoral Division Identification: Longtown ED - Mrs Val Tarbitt
PROPOSED PLANNING CONDITIONS

Time Limit for Implementation of Permission

1. This permission shall be for a limited period only expiring on 31 October 2039 for landfilling operations and complete restoration by 31 October 2041, by which date the operations hereby permitted shall have ceased, all buildings, plant and machinery including foundations and hardstanding shall have been removed from site and the site shall have been restored in accordance with the approved scheme.

Reason: To secure the proper restoration of the site following the approved period for this temporary development, in accordance with Policy DC16 of the Cumbria Minerals and Waste Development Framework (2009).

Approved Scheme

2. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following:

   c. Plans numbered and named:
      i) Drawing No HPW.110 - Location plan
      ii) Drawing No HPW.101C – Current site
      iii) Drawing No HPW.103C – Current approved restoration profiles
      iv) Drawing No HPW.105C – Proposed landscape restoration
      v) Drawing No HPW.15-003K – Sections A-B
      vi) Drawing No HPW.L15-003K – Section C
      vii) Drawing No HPW.109 – Proposed pre-settlement profile
      viii) Figure 2.1 – Development phasing
       ix) Figure 3.2 – Pre-settlement contours
       x) Figure 3.3 – Interim restoration proposals
       xi) Revised cell phasing 2016
   d. The details or schemes approved in accordance with the conditions attached to this permission.

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

Hours of Operation

3. No deposit of waste materials or works associated with such a deposit including the stripping and replacement of soils and works to engineer the site shall take place outside the hours 07.00 to 19.00 everyday including bank or public holidays.

However, this condition shall not operate so as to prevent the sure of pumping equipment and the carrying out, outside of these hours, of essential maintenance to plant and machinery used on site or the monitoring management or treatment
of landfill gas or leachate.

Reason: *In order to protect the amenities of local residents outside operating hours.*

**Traffic and Access**

4. There shall be no vehicular access to or egress from the site other than via the existing approved access unless otherwise agreed in writing by the Waste Planning Authority.

Reason: *To avoid vehicles entering or leaving the site via an unsatisfactory rote in accordance with CMWLF Policy DC1.*

5. During peak period of 08.00 to 09.30 and 15:00 to 17:30 no more than 20 HGV’s (40 movements) shall enter and leave the site. A 12 month record of HGV movements shall be maintained and retained on site and made available for inspection on request to the Waste Planning Authority during operational hours.

Reason: *To minimise the potential for conflict with any other uses in the area and minimise the potential for noise generation from operation of the site in accordance with Policy DC1 of the CMWDF’s Generic Development Control Policies.*

6. All HGV’s entering and leaving the site shall do so via the U1070 from the east.

Reason: *For the avoidance of doubt and due to highway bridge weight restrictions on the U1070 to the west.*

7. The access road from the site to the public highway shall be kept clean and maintained in a good standard of repair for the operational life of the site and throughout the restoration period.

Reason: *To ensure that no material from the access road is carried onto the public highway in the interests of highway safety.*

8. The wheel wash facility shall be retained, maintained and used to ensure that no material from the site is deposited onto the public highway.

Reason: *To ensure that no material from the access road is carried onto the public highway in the interests of highway safety.*

9. Measures shall be employed throughout the operational life of the site to ensure no slurry or water from the site or access road flows onto the public highway.

Reason: *To ensure that no material from the access road is carried onto the public highway in the interests of highway safety.*

**Litter**

10. Measure shall be employed to ensure that windblown litter does not escape from the site.
Reason: To safeguard the amenity of adjoining land users by preventing bindblown litter escaping the site.

Noise and Dust

11. All plant, machinery and vehicles used on site shall be effectively silenced at all times in accordance with the manufacturers specification.

Reason: To safeguard the amenity of adjoining land users by ensuring that the noise generated by the operation of plant, machinery and vehicles is limited to acceptable levels in accordance with CMWLDF Policy DC2.

12. The rating levels for cumulative noise from all plant and machinery during the operational life of the site shall not exceed 5dB below the existing LA90 background levels and 10 dB below the existing LAeq at any noise sensitive premises as assessed in accordance with British Standard 4142 (2014).

Reason: To protect the amenities of local residents from noise pollution and to conform with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

13. During periods of dry weather the access road, haul roads, working areas and waste shall be sprayed with water to suppress dust in order that it does not constitute a nuisance if migrating outside the site.

Reason: To safeguard the amenity of local residents by ensuring that dust does not constitute a nuisance outside the boundaries of the site in accordance with CMWLDF Policy DC2.

Cessation of Operations

14. In the event that waste operations permanently cease prior to the full implementation of the approved scheme, a revised scheme, to include details of the restoration, aftercare and timescale for the completion of the restoration works, shall be submitted for approval to the Waste Planning Authority within 3 months of the cessation of working. The approved revised scheme shall thereafter be implemented in full.

Reason: To secure the proper restoration of the site in the event that operations cease prior to the full implementation of the scheme, in accordance with Policy DC16 of the Cumbria Minerals and Waste Development Framework (2009).

Soil Stripping

15. All available topsoil and subsoil shall be separately stripped from any part of the site before it is excavated or traversed by heavy vehicles or machinery (except for the purposes of stripping that part or stacking topsoil on that part) and shall be stacked in a location to be first agreed in writing with the Waste Planning Authority.

Reason: To ensure that all the topsoil and subsoil is separately removed from the site prior to the commencement of excavations and to prevent any avoidable

16. The stripping, movement and respreading of soils shall be restricted to occasions when the soil is in a suitable dry and friable condition and the ground is sufficiently dry to allow the passage of heavy vehicles and machinery over it without damage to the soils and the topsoil can be separated from the subsoil.

Reason: To prevent any avoidable damage to the structure of the soils.

Surcharging

17. A topographical survey in the form of a plan at 1:5000 scale identifying actual and approved pre and post settlement levels of the permitted landfill/raise site accompanied by calculation of settlement rates shall be submitted to the Waste Planning Authority in April 2018 and thereafter in April of each subsequent year for the operational life of the site.

Reason: To allow the Waste Planning Authority to monitor the rates of fill and settlement to ensure the approved post settlement contours will not be exceeded.

18. No waste capping, restoration or other materials shall be deposited above the Pre-settlement contours indicated on drawing HPW.105c dated Dec 2016.

Reason: To ensure the site does not exceed permitted levels.

Safeguarding of Watercourses and Drainage

19. Throughout the period of working and restoration, provision shall be made for the collection, treatment and disposal of all water entering or arising on the site, including an increased flow from the land, to ensure that there shall be no contamination of watercourses by the approved operations.

Reason: To safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource or adjacent land and to conform with Policies DC13 and 14 of the Cumbria MWDF Generic Development Control Policies.

20. Any chemical, oil or fuel storage containers on the site shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the container or containers’ total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the bund floor or walls. Double skinned tanks may be used as an alternative only when the design and construction has first been approved, in writing, by the Waste Planning Authority.

Reason: To safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource or adjacent land and to conform with Policies DC13 and 14 of the Cumbria MWDF Generic Development Control Policies.
21. Throughout the period of working, restoration and aftercare of each phase the operator shall protect and support any ditch, watercourse or culvert passing through the permission area, or satisfactorily divert it and shall not impair the flow or render less effective drainage onto and from land adjoining.

*Reason:* To safeguard local watercourses and drainage and avoid the pollution of any watercourse or groundwater source, in accordance with Policies DC13 and 14 of the Cumbria MWDF Generic Development Control Policies.

22. During each phase of development all surface water run-off shall be passed through a settlement facility prior to being discharged into any watercourse, soakaway or surface water sewer. The settlement facility shall be retained and maintained for the life of quarrying operations.

*Reason:* To safeguard local watercourses and drainage and avoid the pollution of any watercourse or groundwater source, in accordance with Policies DC13 and 14 of the Cumbria MWDF Generic Development Control Policies.

**Care of Fences**

23. The operator shall maintain and make stockproof the existing fences and walls throughout the period of operations until the restoration and aftercare of the site has been completed.

*Reason:* To secure the proper management of the working area and to ensure that stock do not enter the working areas.

**Environmental Management Plan**

24. Details shall be submitted within 3 months of the date of this permission a scheme detailing bird, vermin and other pest control measures shall be submitted to the Waste Planning Authority for approval in writing. The scheme shall include:

a. Details of the measures to deter bird, vermin and pests becoming accustomed to particular techniques;

b. Fly control management scheme;

c. A methodology for assessing the ongoing effectiveness of different bird, vermin and pest deterrent methods;

d. An objective methodology for assessing insecticide;

e. Details of control measures and ongoing assessment of effectiveness in relating of mammalian pests;

f. On a yearly basis commencing from the date of this planning permission a record of the implementation of the approved measures shall be submitted to the Waste Planning Authority in writing.

The approved scheme shall thereafter be implemented throughout the operational life of the site.

*Reason:* In the interests amenities of users of the area and residential amenities.

**Electricity Generation**
25. The collection and disposal of landfill gas by use for electricity generation for the shall only continue on the site using the plant and equipment constructed and operated in accordance with and subject to the terms of planning permission 1/02/9023. Thereafter on expiry of permission 1/02/9023 or expiry of any other approved amended time limit under a subsequent permission, the plant and equipment shall be removed from site and the land restored.

*Reason:* To secure the proper restoration of the land and to allow its return to as high a quality as possible.

**Ecology**

26. Within 6 months of the date of this permission detail of the proposed habitat areas, their protection, monitoring and ongoing management for 5 years post restoration shall be submitted to and agreed by the Waste Planning Authority prior to the restoration and planting commencing. Once agreed in writing the scheme shall be implemented in full once restoration of the site commences.

*Reason:* To ensure the biodiversity and restoration of the site comply with Cumbria Minerals and Waste Local Plan Policy DC10.

**Aftercare and Restoration**

27. The site shall be progressively restored in accordance with the approved restoration scheme.

*Reason:* To secure the proper restoration of the land and to allow its return to as high a quality as possible.

28. At least once each year during the five year aftercare period for each phase there shall be a formal review, under the provisions of Section 72(5) of the Town and Country Planning Act 1990, to consider the measures which have taken place on each restored phase in the previous year after year 1 and to agree a programme of management for the coming year which shall be carried out by the operator. The parties to attend the review meetings shall include the waste operator and the Waste Planning Authority and any other relevant specialist advisors considered necessary by either party. At least 2 weeks before the date of each review the operator shall provide the Waste Planning Authority with a record of the management and operations carried out on each phase during the period covered by the review and a proposed programme of management for the coming year.

*Reason:* To secure the proper aftercare of the restored land and to allow its return to as high a quality as possible.

**Approved Documents**

29. From the commencement of the development to its completion a copy of this permission including the approved documents and other documents subsequently approved in accordance with this permission, shall always be available on site for inspection during normal working hours. Their existence and
content shall be made known to all operatives likely to be affected by matters covered by them.

Reason: *To ensure those operating the site are conversant with the approved scheme and are aware of the requirements of the planning permission.*

### Cessation of Operations

30. In the event that waste disposal permanently ceases, as defined by this permission, and such period to have been confirmed in writing to the Waste Planning Authority within 28 days of the commencement of such period or such period as identified by the Waste Planning Authority and advised in writing to the applicant, prior to the full implementation of the approved scheme, a revised scheme to include details of the restoration, aftercare and timescale for the completion of the restoration works, shall be submitted to the Waste Planning Authority, within 3 months of the cessation of working for approval. The site shall thereafter be fully restored and aftercare carried out in accordance with the approved scheme.

Reason: *To ensure that the development is carried out to an appropriate standard and to secure the proper restoration of the site should waste disposal at the site ceases prematurely, in accordance with Policy DC16 of the CMWDF Generic Development Control Policies.*

31. In the event that waste disposal is temporarily suspended for a period exceeding one year, the commencement of such period having been first confirmed in writing by the applicant to the Waste Planning Authority or as identified by the Waste Planning Authority and confirmed in writing to the applicant, then within 14 months from the identified time of suspension of waste deposit an interim restoration scheme and timetable for its completion shall be submitted in writing for approval by the Waste Planning Authority. The interim restoration scheme shall then be implemented in its entirety within a further 12 months from the date of approval.

Reason: *To ensure that the development is carried out to an appropriate standard and to secure the proper restoration of the site should quarrying at the site temporarily cease, in accordance with Policy DC16 of the CMWDF Generic Development Control Policies.*

32. If the operations hereby permitted are suspended for a period of 4 weeks or more, the operator shall give written notification to the Waste Planning Authority of the date upon which the operations were suspended. Written notification shall also be given to the Waste Planning Authority within 7 days of the resumption of operations following a temporary suspension.

Reason: *To ensure that the Waste Planning Authority is made aware of the suspension of operations at the site.*
Application No: 1/17/9006  
District: Carlisle

Applicant: Mr Charles Riddell  
Cumbria Waste Management Ltd  
Unit 5A, Wavell Drive  
Carlisle  
Cumbria

Parish: Rockcliffe Parish Council

Received: 27 February 2017

PROPOSAL: Extension to existing materials recovery facility

LOCATION: Hespin Wood Resource Park & Landfill Site, Todhills, Carlisle, CA6 4BJ
1.0 RECOMMENDATION

1.1 That planning permission be Granted subject to the conditions set out in Appendix 1 to this report.

2.0 THE PROPOSAL

2.1 Planning permission is sought to extend the existing Materials Recovery Facility building (MRF) by 29m x 10.5m x 7.5m. The extension would be a lean to design with a mono pitch roof. The extension would be constructed of a steel frame with profiled plastisol coated finish in olive green to match the existing building. There would be two vehicular access doors (4m x 5m) on the eastern and western elevations. A personnel door would also be provided on the western elevation. Internally one of the existing wall panels would be removed to allow access into the extension from the existing building.

2.2 The extension would house a baler machine and provide a new baler line which would bale cardboard, paper and plastic. There would be no material awaiting bailing or having been bailed stored externally.

3.0 SITE DESCRIPTION

3.1 Hespin Wood Resource Park is a mixed use Sui - Generis site which operates as landfill site, MRF, Green Waste Composting, aggregates recycling, location of the northern Mechanical Biological Treatment Plant (MBT) and more recently a concrete batching plant.

3.2 Hespin Wood is located to the north of Carlisle close to the M6 motorway. Access to the site is from the All Purpose Road (APR) which forms the C1022 and links to A689 at Parkhouse roundabout which connects to the strategic road networks of M6 and A689.

3.3 Hespin Wood occupies a rural location approximately 7km from Carlisle City Centre. To the east of the site is woodland, ARP road and M6 corridor. And the settlement of Todhills; to the south is U1070 which links Todhills and Rockcliffe, this forms the access road from C1022. There is a woodland area which separates the site from the highway. Blackrigg bungalow is south west of the site; To the west of the site is west coast railway line and a woodland area; to the north of the site is a woodland area and agricultural fields.

4.0 SITE PLANNING HISTORY

4.1 Hespin Wood has operated as Waste Resource Park site since 1976. The site currently operates under planning permission 1/00/9005 “Continuation of waste disposal & amendment of treatment, phasing, levels, reclamation & after-uses”.

4.2 The Resource Park has a number of different elements namely Mechanical Biological Treatment Plant (MBT), Mechanical Recycling Facility (MRF), green waste composting, aggregate recycling, electricity generation compound, leachate plant and asphalt plant. 4.3 Planning permission was granted for Materials Recovery Facility (1/08/9023 – approved 1 October 2009); Section 73 application to amend planning condition 18 of planning permission 1/08/9023 to increase size of MRF Building (1/13/9011 – approved 12 July 2013) and Additional extension to the permitted Materials Recycling Facility Building (1/13/9021 – approved 10 December 2013).
5.0 PLANNING POLICY

5.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.

5.2 The Cumbria Minerals and Waste Development Framework’s (CMWDF) Core Strategy 2009-2020 (CS) and Generic Development Control Policies 2009-2020 (GDCP) both adopted in April 2009. The key policies relevant to the determination of this planning application are considered to be:

- Policy CS 1 - Sustainable Location and Design
- Policy CS 8 - Provision for Waste
- Policy CS 9 - Waste Capacity
- Policy DC1 - Traffic and Transport
- Policy DC 2 - General Criteria
- Policy DC 3 - Cumulative Environmental Impacts
- Policy DC 4 - Criteria for Waste Management Facilities
- Policy DC 12 - Landscape
- Policy DC 13 - Flood Risk

5.3 The emerging Cumbria Minerals and Waste Local Plan 2015-2030 was subsequently submitted to the Secretary of State for examination by an independent Inspector on 9 September 2016. Hearing sessions for the examination were held between on 29 November and 16 December 2016. Following this, a Table of Main Modifications to the Plan was prepared and consulted on between 27 March and 5 May 2017. The Inspector is now in the process of finalising her Report on changes necessary to ensure that the Local Plan is sound and legally compliant. As the emerging plan progresses greater weight can be attached to it in the decision making process.

5.4 The Carlisle District Local Plan 2015-2030 (CDLP) - adopted 8 November 2016. The key policies relevant to the determination of this planning application are considered to be:

- Policy SP1 - Sustainable Development
- Policy SP6 – Securing Good Design

5.5 The National Planning Policy Framework (NPPF), which was published on 27 March 2012, and the national online Planning Practice Guidance (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF and/or PPG are considered to be relevant to the determination of this application:

- Paragraphs 6-10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Delivering Sustainable Development
  - Section 7 - Requiring good design
- Paragraphs 186-187 - Decision Taking

5.6 The National Planning Policy for Waste (NPPW) was published on 16 October 2014. This sets out the government’s current waste policy to be taken into
account by waste planning authorities and forms part of the national waste management plan for the UK.

6.0 CONSULTATIONS AND REPRESENTATIONS

6.1 Carlisle City Council Planning Department: No objection.

6.2 Rockcliffe Parish Council: Object for the following reasons: Road Infrastructure – the impact that any additional road traffic movements (due to expansion of the facility) will have on a minor, county roads adjacent to the site. These roads already being subject to high levels of HGV movements from this site and other industries in the area; Residential amenity – the impact that further extension of the site would have on the residential amenities for Todhills residents – dwellings being situated within 400m of the site. Items of concern raised include noise levels from traffic movements and production; odour and dust levels production process, light pollution from delivery vehicles and the site lighting and residential disturbance due to working 7 am to 7 pm 7 days per week; Litter – the area suffers from high levels of roadside litter and expansion would add to this. The Parish Council requests that Members undertake a site visit.

6.3 CCC Highway Authority: Taking into account the existing use, it is considered that the proposal will be unlikely to have a material effect on existing highway conditions. No objection to the proposal.

6.4 CCC Lead Local Flood Authority: Taking into account the existing use, it is considered that the proposal will be unlikely to have a material effect on existing highway conditions. No objection to the proposal.

6.5 Carlisle City Council Environmental Health Department: No response received.

6.6 Environment Agency: No response received

6.7 Fire Officer: No objection.

6.8 The application has been advertised in the local press and by site notice on the site. Neighbouring properties and the local county councillor were notified.

6.9 County Councillor Val Tarbitt: The site lies close to Todhills. Concern is raised for the residents of the hamlet and the potential effects for further development on their quality of life. The operation will be from 7 am to 7 pm; traffic movements are not mentioned. Also Rockcliffe village and its access road could suffer from increased heavy vehicular traffic. Litter is also a problem in the area. Councillor Tarbitt requests the Committee visits the site.

6.10 No representations have been received.

7.0 PLANNING ASSESSMENT

7.1 The key planning issues relevant to the proposed schemes are considered to be: Planning Policy, design, scale, access and transport, environmental considerations.

Planning Policy

7.2 Cumbria Minerals and Waste Development Framework’s (CMWDF) Core Strategy 2009-2020 (CS) and Generic Development Control Policies 2009-2020
(GDCP) both adopted in April 2009: Policy CS1 (Sustainable Location and Design) requires development to minimise minerals and waste road miles unless other environmental/sustainability concerns override this aim; Policy CS8 (Provision for Waste) requires any proposal to demonstrate that their environmental impacts are acceptable; Policy CS9 (Waste Capacity) identifies the waste capacity requirements and criteria;

7.3 Policy DC1 (Traffic and Transport) requires sites to be located where they are well related to the strategic road network and minimise operational road miles; Policy DC2 (General Criteria) requires developments to demonstrate noise levels, no significant degradation of air quality (from dust and emissions) and ground stability have been addressed. Consideration should be given to surrounding land uses and protected species and appropriate routes and volumes of traffic and other mitigation measures; Policy DC3 (Cumulative Environmental Impacts) consideration should be given to impacts on local communities; all environmental aspects, type, size and number of vehicles, impacts on the wider economy and impact on local amenity and recreation facilities; Policy DC4 (Criteria for Waste Management Facilities) requires development to conform with locational and other criteria will be permitted on active quarries and landfill site and on suitable industrial estates; Policy DC12 (Landscape) requires development to be compatible with the distinctive characteristics and features of Cumbria’s landscapes and should avoid significant impacts on the natural landscape, capacity of the landscape to accept development and consider the effects; Policy DC13 (Flood Risk) requires development to be located in the lowest probability of flooding (Zone 1). Where there is no reasonable available sites in Flood Zone 1 a flood risk assessment must take into account flood vulnerability of the development.

7.4 Carlisle City Local Plan 2015-2030 (adopted 16 November 2016). Policy SP1 (Sustainable Development) states a positive approach will be taken that reflects the presumption in favour of development contained with NPPF. Permission will be granted unless there are material considerations which indicate otherwise; Policy SP6 (Securing Good Design) states developments will be assessed against design principles including height, scale, massing and material.

7.5 National Planning Policy for Waste (October 2014) sets out the Government’s ambition to work towards more sustainable and efficient approach to resource use and management. Delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy and helping to secure the re-use, recovery or disposal or waste without endangering human health and without harming the environment. The National Planning Policy for Waste should be read in conjunction with the NPPF, the Waste Management Plan for England and National Policy Statements for Waste Water and Hazardous Waste.

7.6 The Waste Framework Directive 2008/98/EC introduced new provisions in order to boost waste prevention and recycling as part of the waste hierarchy. It requires waste to be managed without endangering human health and harming the environment, and in particular without risk to water, air, soil, plants or animals, without causing a nuisance through noise or odours, and without adversely affecting the countryside or places of special interest.

7.7 The Waste (England and Wales) Regulations 2011 requires everyone involved in
waste management to take in the transfer of waste all reasonable measures to apply the waste hierarchy.

7.8 Government Review on Waste Policy in England 2011 sets out the objective of aiming for a zero waste economy in which material resources are re-used, recycled or recovered whenever possible and only disposed of as the option of last resort. There is a clear requirement that materials are re-used, recycled or recovered wherever possible and only disposed of as a last option. There is a clear requirement to drive the treatment of waste up the hierarchy from landfill. The Government Review provides support for Energy from Waste facilities such as that proposed, not only in the context of waste management but also having regard to low carbon/renewable energy provision and climate change.

7.9 Waste Management Plan for England (2013) provides an analysis of the current waste management situation in England and sets out how Government Policy would support the implementation of the revised WFD.

Design and Scale

7.10 The design of the building is a lean to structure on the western elevation of the existing building. The extension would be located on an existing yard area which is currently not accessible to vehicles. The design and colour of the extension would match with the existing building and would be 29m x 10.5m x 7.5m small scale in comparison to the existing main building.

Access and Transport

7.11 Access to Hespin Wood is from APR (C1022) which accesses the U1070 and Hespin Wood Resource Park. Once on the Resource Park access to the MRF is via the internal road system. The site operates a two way vehicular route system around the site. The existing vehicular arrangements will be retained and there would be no increase in vehicle numbers to the building.

7.12 Access to the existing MRF for HGVs is on the eastern elevation this will be retained as the access to the main building. The proposed extension would not impact on manoeuvrability of HGV’s within this section of the site.

Environmental Considerations

7.13 Noise: There is the potential for noise from the operations which would include the running of machinery and operations within the building. The nearest residential property to the extension is Blackrigg Bungalow which is located 350m south west of the application site. There is currently existing noise from the operations and from background traffic noise of the M6. The proposed operations would not give rise to any increase in background noise levels.

7.14 Dust: Dust from the operations would be mainly from operations undertaken in the building and would not be an issue outside the building or seen outside the curtilage of the overall Hespin Wood site from the activities within the MRF.

7.15 Construction Activities: There would be an increase in construction traffic during the construction phase of the building. Construction activities could be controlled by condition to ensure details of the construction compounds, car parking, delivery of material, temporary lighting, provision for manoeuvring, loading and unloading of vehicles and means of receiving material are submitted for approval.
7.16 Environmental Permit for facility: The MRF has a permit from the Environment Agency which allows the facility to process up to 40,000 tonnes of material per annum. The planning permission for the MRF restricts the amount of tonnage which can be processed through the MRF to 40,000 tonnes. There is no proposal to change this.

7.17 County Councillor Tarbitt has raised concerns for the residents of Rockcliffe regarding operational hours, vehicle movements and litter in the area. The building currently operates between the hours of 07.00 to 19.00 thereby there would be no change to existing operations. There would be no increase in vehicle numbers with the proposed extension and litter would be contained within the building. It is considered a site visit would not meet the criteria for site visits and is not necessary.

7.18 Rockcliffe Parish Council has raised concerns with regards to impacts of additional traffic to the site; impact on the amenities of local residents and increase in litter problems.

7.19 Impacts of additional traffic: Hespin Wood currently does not have a restriction on the number of vehicles which can operate from the site. The Local Highway Authority have assessed the extension to the existing MRF facility and have raised no objection to the extension as they consider that the proposal will be unlikely to have a material effect on existing highway conditions. The site is accessed from strategic road system along a small section of country lane, which has weight restrictions once passed the entrance to the site. Also there is signage for vehicles leaving the site access which states that all vehicles must turn left avoiding the country lanes and the village of Rockcliffe.

7.20 Impact on the amenities of local residents: The proposal is to extend the existing internal MRF facilities. There would be no impact on the amenities of local residents from noise, odour or dust levels as the activities would all be undertaken in an enclosed building to the west of the existing facilities which is further away from the residents of Todhills. There is also the All Purpose Road and M6 Motorway separating the residents and the application site.

7.21 The Parish Council and local County Councillor have requested a site visit. It is considered the requests would not meet the County Council’s guidelines for site visits; the proposal is not contentious or particularly complex, the impact is not difficult to visualise or assess from the plans and supporting information, there would not be a substantial benefit from a visit because of the scale or nature of the proposal which is a relatively small extension to an existing building to improve recycling operations and reduce impacts on the environment.

7.22 Litter: No litter would be generated from the proposed extension as all works would be undertaken within an enclosed building.

**Human Rights**

7.23 The proposal would have a limited impact on the visual, residential amenities in the and environmental amenity of the area. Any impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1 of the Human Rights Act 1998) are minimal and proportionate to the wider social and economic interests of the community.
7.24 The proposal would have a limited impact on the visual, residential and environmental amenity of the area but it is considered that those impacts would be insufficient to interfere with the rights of the applicant and satisfactory controls could be imposed on the proposed development to protect the amenities of the most affected residents. The impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1) would be minimal and proportionate to the wider social and economic interests of the community and could be satisfactorily controlled by planning conditions.

8.0 CONCLUSION

8.1 The proposed extension to the existing Material Recovery Facility is a small scale extension in relation to the existing building. The extension would be in keeping with the existing building and raises no issues or concerns with regards to siting, design and means of access.

8.2 The environmental operations of the building are controlled under a permit issued by the Environment Agency which allows up to 40,000 tonnes of material to be processed per annum. There are benefits in undertaking the processing and baling of the proposed materials within an enclosed space as this would reduce the risk of litter being blown outside the site boundary, reduce noise and potential odours associated with the processing activities and produce a better quality of materials for recycling.

8.3 In summary, it is considered that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably by mitigated. Furthermore, any potential harm to interests of acknowledged importance is likely to be negligible and would be outweighed by the benefits of the development. It is therefore recommended that this application be granted subject to conditions.

Dominic Donnini  
Corporate Director Economy and Highways

Contact: Mrs Jayne Petersen MA RTPI, Kendal,  
Tel: 01539 713549; Email: jayne.petersen@cumbria.gov.uk

Background Papers: Planning Application File Reference No. 1/17/9006  
1/13/9021; 1/13/9011; 1/08/9023

Electoral Division Identification: Longtown - Mrs Val Tarbitt
PROPOSED PLANNING CONDITIONS

Time Limit for Implementation of Permission

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

Approved Scheme

2. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following:

   a. The submitted Application Form – dated 20 February 2017
   b. Planning Statement – dated February 2017
   c. Plans numbered and named:
      i) Figure 1 – Location Plan dated March 2017
      ii) Figure 2 - OS Map Location Plan dated March 2017
      iii) Drawing No HW 147/1 dated September 2016
   d. The details or schemes approved in accordance with the conditions attached to this permission.

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

Operating hours

3. No operations, including the loading or transportation of waste or operation of plant, shall take place on site outside the hours 07.00 to 19.00 hours daily. However this condition shall not operate so as to prevent the carrying out, outside these hours, of essential maintenance to plant and machinery used on site.

Reason: To protect the amenity of local residents.

Type and quantities of waste

4. Materials to be handled at the MRF shall consist solely of dry, non-odorous wastes.

Reason: To avoid odour.

5. No more than 40,000 tonnes of waste shall be processed on the site in any 12 month period. Details of the total annual throughput of the site for each calendar year shall be made available to the Waste Planning Authority by the 31st January the following year.
Reason: To keep to acceptable levels the impact of lorry traffic on the amenity of local residents and other road users.

Operational Scheme

6. All plant, machinery and vehicles used on site shall be effectively silenced at all times in accordance with the manufacturers’ recommendations.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and does not constitute a nuisance outside the boundaries of the site.

7. All vehicles under the site operator’s control that are fitted with reversing alarms shall use a white noise type.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and does not become a nuisance outside the boundaries of the site.

8. All vehicles leaving the site shall be in a clean condition to ensure that no slurry, mud or other material from the site is deposited upon the public highway.

Reason: To prevent the vehicles carrying material on to the public highway in the interests of highway safety.

9. All HGV’s entering and leaving the site shall do so via the U1070 from the east.

Reason: For the avoidance of doubt and due to highway bridge weight restrictions on the U1070 to the west

10. All artificial lighting units installed on the site shall be sited and shielded as to avoid light pollution to residential areas and to the night sky.

Reason: To prevent light pollution.

11. No raw baled or unbaled materials or processed baled materials shall be stored outside the Material Recyling Building as extended.

Reason: To safeguard the amenity of local residents by ensuring that the opportunity of windblown materials is minimised and does not constitute a nuisance outside the boundaries of the site.

Construction Activities

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

a) Contractors compound/parking provision including a plan reserving adequate land for the parking of vehicles engaged in construction operations, including vehicular access;

b) Management of traffic within and accessing the site;

c) Means of receiving construction material and identification of potential sources and measures to control noise, dust and vibration
d) Details of temporary lighting during construction;

e) Details of temporary construction/warning signage;

f) Provision for facilities of manoeuvring, loading and unloading of vehicles.

Reason: *To ensure the construction is carried out in accordance with the approved scheme.*
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**Application No:** 1/17/9007  
**District:** Carlisle City  
**Applicant:** Cumbria County Council  
**Received:** 9 March 2017

**PROPOSAL:** Demolition of the Lower Gaol Yard and Lonsdale buildings  
**LOCATION:** Land to the rear of The Courts, Bush Brow, Carlisle, CA3 8NA
1.0 RECOMMENDATION

1.1 That planning permission be Granted subject to the conditions set out in Appendix 1 to this report.

2.0 THE PROPOSAL

2.1 Planning permission is sought to demolish two existing office buildings within Carlisle’s Conservation Area to the rear of the Courts in Carlisle. It is proposed to remove the floor slabs of the buildings and the majority of the sub-base foundation so as to leave 25-30cm of sub-base foundation undisturbed above the original ground surface. It is proposed that the building footprints would be tied into surrounding ground-levels and tarmac surfaced.

2.2 It is also proposed that surface mounted pedestrian fencing will be provided along edges that present a risk of fall from height, including the edge of the ramp and along the top of the retaining wall between the Upper and Lower Gaol Yards. A surface mounted vehicle wheel stop would also be installed in the Upper Gaol Yard in front of the retaining wall top to keep vehicles back from the edge. These measures could be done under permitted development rights.

3.0 SITE LOCATION & DESCRIPTION

3.1 The Lower Gaol Yard and Lonsdale Building are part of a complex of buildings generally referred to as ‘The Courts’ site due to its historic use as such. The Courts are located at, and some form part of, the historic southern entrance to Carlisle. They are situated within the southern side of the city centre and fall within the Carlisle City Centre Conservation Area.

3.2 The Courts complex covers an area of approximately 0.65ha and comprises four distinct buildings:–

- The County Court Citadel building (former Crown Courts and former Hospital Wing on the site of the 1542 Citadel);
- The Lonsdale Building;
- Lower Gaol Yard;
- The Kraemer Building (previously known as the Treasurers Building);

3.3 The Lower Gaol Yard and Lonsdale office buildings are situated to the rear (south-western side) of the Grade I listed Citadel Building (aka: Crown Court, adjoining offices and gate arch - Ref: 1196939). Directly connected to the Citadel Building are the Grade II listed former Hospital Wing of the County Gaol and Gaol Wall (Ref. 1196941) and Gaol Wall west of Crown Court (Ref. 1196983). The Gaol Wall stands stands approximately 10m above ground level at its highest point.

3.4 The Lower Gaol Yard building was constructed in the early 1970s. It is a flat-roofed modular terrapin building with undercroft car parking below. The building is timber-framed with cream panel external walls set amongst white frames. The majority of the building is two storeys. The undercroft car parking is constructed from brick and steel. The structure is detached from the listed Gaol Wall. The Lower Gaol Yard building has a footprint of approximately 500m².

3.5 The Lonsdale Building is a multi-storey office building with a footprint of approximately 1,000m² that was erected in 1979-1980. It has red brick faced
walls and a slated mansard top-floor/roof. It is constructed on split-levels so that its north-eastern front elevation is 3 storeys while its rear south-western elevation is 4 storeys. The difference in ground levels between the Upper Gaol Yard and the Lower Gaol Yard is equivalent to a single storey.

3.6 The Courts complex is bounded as follows:

a) To the north-east by English Street/A6.

b) To the east by the major traffic lit junction of English Street (A6), Botchergate (A6), The Crescent (A69) and Court Square Brow/Borough Street (U137). Grade II Listed Buildings mark the end of either side of Botchergate.

c) To the south by Court Square Brow/Borough Street. The level of this road drops substantially from east to west.

d) To the west the Lower Gaol Yard building is bounded by Bush Brow. Beyond and above this is Victoria Viaduct Bridge over the railway line. The south-western portion of the Lonsdale Building is bounded and partially adjoined by the three storeys Paton House which contains a number of office, retail and leisure units. The northern end of the Lonsdale Building is bounded by a wall on the opposite side of which is an area used as parking in connection with Paton House.

3.7 Vehicular access to the Courts is obtained from the U137 (Bush Brow off English Damside / Borough Street).

3.8 The main point of pedestrian access to the Courts complex is via The Citadel building from English Street. Pedestrian access can also be gained via Bush Brow to the west from Victoria Viaduct or Borough Street.

4.0 SITE PLANNING HISTORY

4.1 There are a large number of planning records relating to the Courts complex. The majority of these relate to listed building consent applications for maintenance and/or internal alterations/adaptations to the Citadel building. The planning permissions which relate to the buildings proposed to be demolished are as follows:

<table>
<thead>
<tr>
<th>Ref.</th>
<th>Development Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/98/9008</td>
<td>Roof access ladder for maintenance purposes (Lonsdale Building)</td>
</tr>
<tr>
<td>1/79/0049</td>
<td>New Offices (Lonsdale Building)</td>
</tr>
<tr>
<td>1/77/0870</td>
<td>Retention of two storey office block (Lower Gaol Yard)</td>
</tr>
<tr>
<td>1/77/0662</td>
<td>Retention of plan filing room (Lower Gaol Yard)</td>
</tr>
<tr>
<td>1/77/0663</td>
<td>Retention of two storey terrapin building for offices with car parking below (Lower Gaol Yard)</td>
</tr>
</tbody>
</table>

4.2 Cumbria County Council has recently vacated the offices at the Courts complex moving staff to the new Cumbria House development on Botchergate. The Citadel building will be safeguarded for future generations with options being explored to ensure an appropriate and viable use to enhance its future sustainability. The Kraemer Building is considered to be in good condition with a range of alternative uses and is to be retained. Proposals for the future use of the Courts site are still at a conceptual stage and require further information about the site constraints, which can only be fully obtained once the Lower Gaol Yard Buildings and Lonsdale Building are demolished. To ensure that the site does not
fall into dis-use/neglect, interim uses of the land are currently being explored by the applicant and will be the subject of a future planning application.

5.0 PLANNING POLICY

5.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires Local Planning Authorities to determine planning applications in accordance with the development plan (i.e. planning policy) unless material considerations indicate otherwise. The relevant development plan for this proposal is the Carlisle District Local Plan 2015-2030 (CDLP) which was adopted on 8 November 2016. The key policies of the CDLP relevant to the determination of this planning application are considered to be:

- Policy SP 1: Sustainable Development
- Policy SP 4: Carlisle City Centre and Caldew Riverside
- Policy SP 5: Strategic Connectivity
- Policy SP 6: Securing Good Design
- Policy SP 7: Valuing our Heritage and Cultural Identity
- Policy SP 8: Green and Blue Infrastructure
- Policy SP 9: Healthy and Thriving Communities
- Policy IP 2: Transport and Development
- Policy CC 4: Flood Risk and Development
- Policy CC 5: Surface Water Management and Sustainable Drainage Systems
- Policy CM 4: Planning Out Crime
- Policy CM 5: Environmental and Amenity Protection
- Policy HE2: Scheduled Ancient Monuments and Non-Designated Archaeological Assets
- Policy HE 3: Listed Buildings
- Policy HE 7: Conservation Areas
- Policy GI 3: Biodiversity & Geodiversity
- Policy GI 6: Trees and Hedgerows

5.2 Policy Map 1 (Carlisle City Centre) denotes the Courts site as “Citadel Redevelopment Opportunity” and cross-references to Policy SP4. It also denotes the Citadel as comprising a key townscape frontage where it front onto Court Square Brow and English Street.

5.3 The National Planning Policy Framework (NPPF), which was published on 27 March 2012, and the national online Planning Practice Guidance (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF are considered to be relevant to the determination of this application:

- Paragraphs 6-10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Delivering Sustainable Development
  - Section 1 - Building a strong, competitive economy
  - Section 2 - Ensuring the vitality of town centres
  - Section 7 - Requiring good design
  - Section 11 - Conserving and enhancing the natural environment.
  - Section 12 - Conserving and enhancing the historic environment
- Paragraphs 186-187 - Decision Taking
6.0 CONSULTATIONS AND REPRESENTATIONS

6.1 Carlisle City Council Planning Department: No objection.

6.2 Carlisle City Council Environmental Health Department: No objection. Recommend inclusion of a condition to address any contamination that is encountered during demolition. Consideration should be given to protect any nearby residents or sensitive receptors from possible statutory dust or noise nuisance (including vibration) and appropriate mitigation measures deployed to minimise the impact of noise and dust. Consideration should be given to limiting the permitted hours of work; siting of storage/loading of demolition wastes away from sensitive receptors; use of white noise reversing alarms; sheeting of vehicles and presence of water bowsers to suppress dust.

6.3 Historic England: No objection. Consider the proposed demolition to be “minor works”. Note that the works, including the remediation works to be carried out following the demolitions, would not involve any ground disturbance to archaeological remains. Note that the Lower Gaol Yard and Lonsdale Buildings date from the 20th Century and are of no heritage significance. Consider their demolition and subsequent remediation would enhance the setting of the Grade I Listed Citadel Building and the conservation area.

6.4 CCC Historic Environment Officer (HEO): No objection. Note there is the potential for well-preserved Roman and medieval archaeological assets to survive below ground on the site and that any disturbance from the proposed development below existing ground level is likely to damage these assets. It is also noted that the intention is not to disturb the former ground surface below the existing floor slab. Concludes the archaeological implications of the proposed demolition works are negligible and that no archaeological work is necessary.

6.5 CCC Ecological Consultant: No objection subject to imposition of a condition requiring contractors to remove by hand those roofing features which have bat roosting potential.

6.6 CCC Highway Authority: No objection. The layout details shown on the submitted plan are satisfactory from a highway perspective.

6.7 Network Rail:

   a) Access and egress from and to the railway station must remain open and unblocked around the clock (24/7, 365) during the proposed works on site;

   b) All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail’s property, must at all times be carried out in a “fail safe” manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the boundary with Network Rail. Where this is unavoidable, Network Rail’s Asset Protection Engineer must be consulted; crane working diagrams, specification and method of working must be submitted for review and agreement prior to work(s) commencing on site;

   c) The demolition works on site must be carried out so that they do not endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures and land.
d) That in addition to any planning consent that may be issued, the developer is to submit directly to Network Rail,

i. a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway (including the demolition works) under Construction (Design and Management) Regulations;

ii. a BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail.

6.8 Cumbria Constabulary Crime Prevention Design Advisor: Advises that measures should be employed to secure the site during demolition works to prevent unauthorised access, theft and damage.

6.9 Electricity North-West: Note there is a sub-station within the grounds of the courts that feeds the existing complex and that any services to buildings to be demolished must be decommissioned and made safe before demolition works commence with safe excavation techniques being practiced at all times.

6.10 United Utilities: No response received.

6.11 British Telecom: No response received.

6.12 The application has been advertised in the local press and by site notice on the site. Neighbouring properties and the local county councillors were also notified. No representations have been received.

7.0 PLANNING ASSESSMENT

7.1 Planning permission is sought to demolish the Lower Gaol Yard and Lonsdale Office buildings to the rear of the Citadel and associated site clearance to facilitate the release of the Courts site for alternative re-use and redevelopment. Consideration of this application is concerned solely with the proposed demolition works within the conservation area. Any re-use and/or redevelopment of the site will be the subject of a separate future planning application and as such are not a material consideration to the determination of this application.

7.2 Policy SP4 of the CDLP considers that the reuse and re-development of the Courts complex “could act as a catalyst to enhance the vitality and viability of the southern extent of the City Centre, including Botchergate, and further improve the sense of arrival for visitors using this important historic and iconic gateway”. It continues that “proposals will be supported providing that they do not prejudice any longer term opportunities and respect the significance of the heritage assets which characterise this area”. The Lower Gaol Yard Buildings and Lonsdale Building are the only buildings on the site proposed for demolition. Both were built in the late 20th Century, are in poor condition and are not fit for modern office use purposes. The applicant is of the view that their removal would enable proposals for the long-term future use of the Courts site to be progressed. In this respect the proposal is considered to comply with the strategic objectives of Policy SP4 of the CDLP.

7.3 The key planning issues relevant to the proposed demolition are considered to be heritage and visual impacts; impacts on amenity (dust, noise, vibration and other forms of pollution); protection of protected species; impacts on neighbouring infrastructure and the proposed reinstatement of the land.
Heritage and Visual Impact

7.4 Conservation Areas are defined by statute as areas ‘of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance’. The NPPF and Policy HE7 of the CDLP require development within conservation areas to preserve or enhance the special distinctive character/sense of place, appearance and setting of those buildings and sites in that area that make a positive contribution to its special architectural or historic interest. Paragraph 138 of the NPPF notes that not all elements of a Conservation Area will necessarily contribute to its significance as a heritage asset.

7.5 A Heritage Statement has been submitted in support of the application in accordance with Paragraph 128 of the NPPF. This describes the significance of the conservation area and nearby listed buildings, and the important contribution made to the area by these nearby listed buildings. The submitted Heritage Statement is considered to provide an appropriate level of detail.

7.6 Paragraph 129 of the NPPF requires Local Planning Authorities to identify the particular significance of any heritage asset that may be affected by an application.

7.7 The proposal stands to affect the City Centre Conservation Area which includes the original historic settlement of Carlisle and a large number of buildings of historic merit. The Grade I listed Citadel Building is of exceptional heritage interest and national significance. The Grade II listed former Hospital Wing of the County Gaol and Gaol Walls are of regional importance. These three listed buildings/structures have high aesthetic, communal, evidential and historic value.

7.8 The buildings proposed to be demolished are late 20th Century additions to the Courts site that are of little architectural merit. Neither the Lonsdale nor Low Gaol Yard buildings are considered to have any historical, aesthetic or communal value. Due to their massing, form and materials, they are considered to generally detract from the character and appearance of the conservation area and the setting of both the area and the nearby listed buildings/structures. The removal of these buildings would thus improve the setting of the listed buildings/structures on site and enhance the character and appearance of the area in line with the objectives of Policies HE3 and HE7 of the CDLP and the policies of the NPPF.

7.9 Whilst the Lonsdale and Lower Gaol Yard buildings have little heritage value, the land beneath them has the potential to provide significant archaeological evidence of past human activity dating back to up to two millennia. It is proposed to break-out and remove the strip foundations to the supports of the Low Gaol Yard Buildings to a depth of no more than 10cm (100mm) below the existing car-park level. The Lonsdale Building was constructed on deep pile foundations. The concrete floor slab sits on the pile caps and a layer of compacted crushed rock sub-base foundation (which is required as an operational platform for piling rigs). It is proposed to remove the basement floor slab to the underside of the slab using mechanical excavators and pneumatic drills. The piles will be cut to just below the top of subbase and the subbase layer left in place so as to leave at least 25-30cm cover over the original ground-surface. The piles and a number of pile caps would be left in place along with a protective layer of crushed rock subbase. The proposals would thus involve negligible disruption to original ground beneath these buildings and, provided they are carried out in accordance with the scheme submitted, would not disrupt or disturb any archaeological
remains. CCC Historic Environment Record Officer considers the archaeological implications to be negligible and that no archaeological work is therefore necessary in association with these proposals. Consequently it is considered that the proposed demolition works would not cause substantial harm to any potential archaeological assets and therefore complies with Policy HE2. The need for any archaeological investigation of the site could be addressed as part of any future application for interim use or permanent development of the site.

7.10 The submitted ‘Demolition Method Statement’ stipulates appropriate methods and precautionary measures to protect the nearby listed walls and buildings from damage during the undertaking of demolition operations (e.g. use of protective fencing/scaffolds and hand demolition procedures). Accordingly it is considered that the proposal is unlikely to result in any inadvertent damage to any listed buildings and complies with Policy HE3 of the CDLP.

Amenity impacts (Dust and Noise)

7.11 The undertaking of the demolition works has the potential to create adverse impacts outside the confines of the courts site in relation to the potential for generation and emission of dust and noise. The majority of neighbouring buildings are in commercial use and are not considered to be highly sensitivity receptors. The building foundations, the breaking-up of which stand to generate the most noise, are within the lower gaol yard area and therefore some 3-4m lower than the surrounding land-uses and are enclosed by the city walls.

7.12 A Demolition Method Statement has been submitted in support of the application. This includes an undertaking to monitor and minimise dust, noise and vibration and presents a number of robust measures within the “risk assessment” section to control and minimise dust and noise so as to ensure no unacceptable impacts in association with these works on surrounding land-uses. Conditions are proposed limiting the permitted hours of demolition work; requiring the use of white noise reversing alarms; the sheeting of vehicles, and presence of water bowsers to suppress dust in order to safeguard against any possible statutory dust or noise nuisance (including vibration). A condition is also proposed to cover any encounter with hitherto unsuspected contamination during the operations to demolish the building. In light of these proposed conditions it is considered that the proposed undertaking of the demolition operations would not result in any unacceptable levels of pollution or have an unduly adverse impact upon amenity. Consequently the proposal is considered to comply with Policy CM5 of the CDLP.

Nature Conservation

7.13 A Protected Species Statement and Preliminary Bat Roost Assessment were submitted with the application based on surveys/site-assessments undertaken in January 2017. A Bat Emergence Survey was undertaken at the beginning of May 2017. Both buildings have moderate potential to support occasional breeding birds and bat roosts. However no signs of active or previous nest or roost presence or use were recorded during the surveys of the site. A condition is proposed require hand removal of the hanging tiles on the top storey of the Lonsdale Building under the instruction of a qualified ecologist to ensure that the removal of these features with bat roosting potential does not lead to any contravention of the Wildlife and Countryside Act. In light of the survey findings and condition proposed it is considered that there would be no adverse impact on any protected species from the proposed demolition works and would comply
with Policy GI3 of the CDLP.

**Impacts on Neighbouring Infrastructure**

7.14 It is considered that the Demolition Method Statement provides sufficiently robust measures to ensure that the demolition operations would not affect the continued and safe operation of the nearby Highway (U137) and railway line. None of the site remains in use. Consequently the traffic generated by demolition operations would not result in a material increase in levels of traffic generated by the site. Vehicular access to the courts is at least 200m from the access/egress to Carlisle Train Station. Consequently it is considered that the traffic generated by demolition operations would not affect this. CCC Highways and Network Rail have raised no objection.

**Reinstatement of Land**

7.15 The land immediately around the buildings; and in the case of Lower Gaol Yards under croft, underneath; is tarmac surfaced. Therefore, in light of the currently unknown future-use or layout of any re-development it is considered, and in order to protect any potential below ground archaeological remains and minimise emission/escape of dust, a bituminous hard surfacing would be acceptable, and would not adversely impact upon the setting of the adjacent listed buildings. A condition is proposed to require the repair and reinstatement of any cobbled-setts and flags that may become damaged or dislodged during the undertaking of demolition operations.

7.16 **Human Rights:** Given the nature and purpose of the proposed development no Convention Rights as set out in the Human Rights Act 1998 would be affected.

8.0 **CONCLUSION**

8.1 The proposed demolition of the buildings would accord with local development planning policy in respect of heritage considerations - enhancing the character and appearance of the conservation area and setting of the nearby listed buildings. Subject to the conditions proposed, the demolition works would not have any adverse impact outside the site that could not be controlled by condition. The proposed ecological mitigation measures put forward along with the proposed conditions would ensure that the proposals would not adversely impact upon any protected species.

8.2 In summary, it is considered that the proposed development is in accordance with the policies of the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably be mitigated. It is therefore recommended that planning permission be granted subject to conditions.

Dominic Donnini
Corporate Director Economy and Highways

**Contact:** Mr Edward Page, Kendal, Tel: 01539 713 424

**Background Papers:** Planning Application File Reference No. 1/17/9007

**Electoral Division Identification:** Currock ED - Mr R Watson OBE
PROPOSED PLANNING CONDITIONS

Time Limit for Implementation of Permission

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

Approved Scheme

2. The development hereby permitted shall be carried out in accordance with the following:
   e. Letter dated 5 May 2017 from Capita re: Bat Surveys at the Courts;

   Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

PROTECTED SPECIES

Bats

3. No demolition of the Lonsdale Building shall commence until contractors have removed by hand those roofing features which have bat roosting potential (e.g. hanging tiles). A suitably qualified bat ecologist must provide appropriate training and guidance to the contractors prior to hand-stripping commencing. If a bat or bat-roost is found at any point during these works, works must cease and a qualified bat ecologist contacted and their subsequent instruction followed.

   Reason: To ensure compliance with The Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended).

Breeding Birds

4. Prior to the commencement of demolition of the Lonsdale Building the shrub planting and tree adjacent to the eastern side of the north-eastern elevation of the Lonsdale Building shall be fenced off and protected with scaffolding so as to ensure that it is not adversely impacted by demolition operations.

   If during the course of demolition works the shrub planting and tree is required to be removed, it should not be removed between the 1 March and 31 August in any year. If this area cannot be cleared outside this time, then it should be
checked for breeding birds by a qualified ecologist in accordance with Natural England’s Guidance and, if appropriate, an exclusion zone set up around it incorporating adequate physical protection from demolition operations. No work shall be undertaken within the exclusion zone until nesting birds have been confirmed absent by a qualified ecologist.

Reason: *To ensure appropriate protection for breeding / nesting birds under Section 1 of the Wildlife and Countryside Act 1981.*

**DEMOLITION PHASE**

**Hours**

5. No demolition operations or transport of demolition waste off the site shall take place except between the hours of 08.00am and 18.00pm Monday to Saturday (excluding Public Holidays). No demolition operations or transport of demolition waste off the site shall be carried out on Sundays or public and/or bank holidays.

Reason: *In order to protect local amenity.*

**Parking during demolition operations**

6. Throughout the undertaking of the demolition operations and reinstatement of the land adequate space shall be maintained on site at all times for the parking of all contractors, staff and visitors, as well as plant and vehicles engaged in demolition and reinstatement operations.

Reason: *To prevent inconvenience and danger to road users.*

**Protection of the Highway**

7. No demolition work shall render hazardous the use of any public highway adjoining the site. Demolition work must take place inwards towards the site and not outwards towards the public highway.

Reason: *In the interests of public and highway safety.*

**Sheeting of Vehicles**

8. No vehicle shall be used to transport materials onto the public highway unless securely sheeted, or the material is otherwise contained or secured.

Reason: *To ensure that material is not released into the air or deposited upon the highway in the interest of local amenity and highway safety and in accord with Policy DC1 of the CMWDF GDCP.*

**Control of Noise**

9. All vehicles, plant and machinery engaged in demolition operations within the site shall be fitted with silencers and maintained at all times in accordance with the manufacturers’ and/or suppliers’ instructions.

Reason: *To minimise the potential for there to be any adverse impact from noise in accordance with Policy DC2 of the CMWDF GDCP.*

10. Reversing alarms fitted to any vehicle engaged in demolition operations shall only be of white noise type.
Reason: To minimise the potential for there to be any adverse impact from noise in accordance with Policy DC2 of the CMWDF GDCP.

Encounters with Unsuspected Contamination

11. In the event that contamination is found within the buildings to be demolished it must be reported in writing within three working days to the County Planning Authority and any further demolition works shall cease until such time as an investigation and risk assessment has been carried out. If the investigation and risk assessment identifies contamination a remediation scheme shall be prepared and submitted to and approved in writing by the County Planning Authority. The approved remediation shall thereafter be carried out in full.

Reason: To ensure that risks from soil contamination to the future occupants of the development and neighbouring occupiers are mitigated, together with those to controlled waters and ecological systems and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction.

POST DEMOLITION REQUIREMENTS

Site Drainage

12. Following the completion of demolition operations and removal of all debris from the surface of the site, the surface water drainage system shall be checked, cleared and repaired as necessary.

Reason: To ensure the site continues to be effectually drained post-demolition.

Paving setts and flags

13. Following the completion of demolition operations and removal of all debris from the surface of the site, the condition of the Paving setts and flags shall be assessed and repaired and reinstated so that their condition is at least equal to that prior to demolition operations taking place.

Reason: To ensure that demolition operations do not adversely impact the historic fabric of the conservation area or the setting of the Grade I listed Citadel Building (aka: Crown Court, adjoining offices and gate arch - Ref: 1196939). Directly connected to the Citadel Building are the Grade II listed former Hospital Wing of the County Gaol and Gaol Wall (Ref. 1196941) in accordance with CDLP Policies HE3 and HE7.
DEVELOPMENT CONTROL AND REGULATION COMMITTEE
A report by the Corporate Director Economy and Highways

Application No: 1/17/9008
District: Carlisle City Council

Applicant: Mr Richard Allan - North West Recycling Ltd
Parish: Rockcliffe Parish Council

Unit A Rockcliffe Industrial Estate Received: 20 April 2017

PROPOSAL: Section 73 Variation of Conditions 1,10 & 11 of planning permission reference 1/11/9001 Unit A Rockcliffe Estate, Kingmoor Park, Carlisle CA6 4RW

LOCATION: North West Recycling, Unit A, Rockcliffe Industrial Estate, Kingmoor Park, Carlisle, CA6 4RW
1.0 RECOMMENDATION

1.1 That planning permission be Granted subject to the conditions set out in Appendix 1 to this report.

2.0 THE PROPOSAL

2.1 Planning permission is sought to vary the approved layout drawing and associated conditions to reflect changes to the operation of the waste management facility at Unit A, Kingmoor Rockcliffe. The application does not seek to increase the capacity or throughput of the facility.

2.2 The changes are in part retrospective and have resulted in the relocation of the staff parking area, the storage of baled plastics away from the building for fire management purposes and the aggregate discharge belt emerging from the western elevation of the building. It is also proposed to create bays for the storage of baled plastic and to move the weighbridge to facilitate the integration of unit B and site K into the overall waste management operation.

3.0 SITE DESCRIPTION

3.1 The application site is located adjacent to the entrance of Rockcliffe Estate, Kingmoor, Carlisle. The site was formerly part of RAF Carlisle and the 14th Maintenance Unit (14MU). 14MU consisted of various industrial type buildings used for the storage and maintenance of equipment and associated office / administration buildings across a number of sites to the north of Carlisle. After the closure of 14MU, Carlisle City Council granted planning permission for B2 & B8 use of the site. The Rockcliffe Estate is now a mixed use estate containing both industrial and office based businesses and includes two other waste management operations. Northwest Recycling operates from 3 linked areas of the estate, unit A, the subject of this application, unit B and site K. The company’s head office and associated staff parking are also on the estate.

3.2 Unit A is a large industrial building surrounded by an apron of concrete and a 3m high close board fence along the northern and western perimeters. Waste materials are stored along the southern elevation and waste is delivered to the unit via doors in the eastern elevation. Unit B and site K, although functionally linked, are not affected by this planning application.

4.0 SITE PLANNING HISTORY

4.1 Conditional planning permission for Unit A was granted on 19 March 2009 (ref 1/09/9002) for a change of use from an industrial building (for B8 use) to the development and operation of a materials recycling facility to enable the sorting and recycling of waste materials (sui generis).

4.2 An application made in 2010 (reference 1/10/9021) to amend conditions to planning permission 1/09/9002 and alter the site layout was withdrawn.

4.3 An application made in 2011 to vary conditions 17, 19 and 20 of planning application ref: 1/09/9002, was conditionally approved on 22 June 2011(ref 1/11/9001).

4.4 Planning permission for waste management operations in unit B and on site K was granted on 17 February 2016 (ref 1/15/9006).
5.0 PLANNING POLICY

5.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.

5.2 The Cumbria Minerals and Waste Development Framework’s (CMWDF) Core Strategy 2009-2020 (CS) and Generic Development Control Policies 2009-2020 (GDCP) both adopted in April 2009. The key policies relevant to the determination of this planning application are considered to be:

- Policy CS 8 - Provision for Waste
- Policy DC 2 - General Criteria
- Policy DC 3 - Cumulative Environmental Impacts
- Policy DC 4 - Criteria for Waste Management Facilities
- Policy DC 12 - Landscape

5.3 The emerging Cumbria Minerals and Waste Local Plan 2015-2030 (CMWLP) was submitted to the Secretary of State for examination by an independent Inspector on 9 September 2016. Hearing sessions for the examination were held between 29 November 2016 and 16 December 2016. Following this, a Table of Main Modifications to the Plan was prepared and consulted on between 27 March 2017 and 5 May 2017. The Inspector is now in the process of finalising her Report on changes necessary to ensure that the CMWLP is sound and legally compliant. As the emerging plan progresses greater weight can be attached to it in the decision making process. In this instance weight can be attached to policy SP2 (provision for waste). Determination of this planning application are considered to be:

- SP1 – Presumption in favour of sustainable development
- SP2 – Provision for waste
- DC6 – Cumulative environmental impacts
- DC9 – Criteria for waste management facilities

Carlisle

5.4 The Carlisle District Local Plan 2015-2030 (CDLP) - adopted 8 November 2016. The key policies relevant to the determination of this planning application are considered to be:

- SP1 – Sustainable development
- CM5 – Environmental and Amenity Protection

5.5 The National Planning Policy Framework [NPPF], which was published on 27 March 2012, and the national online Planning Practice Guidance (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF are considered to be relevant to the determination of this application:

- Paragraphs 6-10 - Achieving sustainable development
- Paragraph 122 – responsibility of regulatory regimes
- Paragraphs 11-14 - The presumption in favour of sustainable development
Paragraphs 186-187 - Decision Taking

6.0 CONSULTATIONS AND REPRESENTATIONS

6.1 Carlisle City Council Planning Department: No objection.

6.2 Carlisle City Council Environmental Health Department: No objection in principle although draw attention to the potential for statutory nuisance and historical issues with the site.

6.3 Rockcliffe Parish Council: Object on the basis of regular breaches of site operating hours; car parking arrangements and the storage of additional materials. They also recommend a site visit is undertaken.

6.4 Environment Agency: No comment.

6.5 Cumbria Fire and Rescue: No Objection. The Fire Protection Plan had just been completed in conjunction with the EA and there were a number of recommendations to be addressed mainly around the storage and segregation of waste, water supplies and detection. At a recent visit it was noted that there was good progress towards completion of these recommendations. Large concrete separation structures were being constructed, hydrants checked and infra-red camera detection being upgraded, general access around the plant was also being improved.

6.6 The application has been advertised in the local press and by site notice on the site. The local County Councillor, Mrs Tarbitt has been notified and recommends the Committee undertakes a site visit to ensure that the quality of life of Rockcliffe residents is not affected by these changes and that Cumbria Fire and Rescue team are invited to check out the arrangements for baled material.

6.7 No representations have been received.

7.0 PLANNING ASSESSMENT

7.1 Planning permission is sought to vary the approved layout drawing and associated conditions to reflect changes to the operation of a waste management facility at Unit A, Kingmoor, Rockcliffe. The application does not seek to increase the capacity or throughput of the facility.

7.2 Whilst the operation of a waste management business will inevitably create issues from time to time, not all of these can be directly addressed through the planning system. They can also be addressed through the permitting process managed by the Environment Agency. The key planning considerations relevant to the application are considered to be the visual impact of relocating the plastic bale storage area and aggregate discharge belt, and the parking of private vehicles used by staff. The proposed relocation of the weighbridge within the existing site does not raise any issues. The application also serves to regularise a number of minor operational changes that have accumulated over time.

7.3 The existing planning permission at the site (ref 1/11/9001) is quite prescriptive as to what operations are carried out where outside of the unit A, and stipulates where waste and processed materials are required to be stored. These restrictions were imposed to address fears and representations made in relation to previous applications at the time.
With respect to concerns about fire risk, this application is being driven by the “Fire Prevention Plan” that is now required as part of the site’s environmental permit. There was a major fire at the site in December 2012 and there have been a couple of minor incidents since then. The environmental permit and associated management systems are regulated by the Environment Agency (EA). The EA has a lead regulatory role in the environmental permitting process and the Fire Prevention Plan has been developed and implemented in conjunction with Cumbria Fire and Rescue. It has led to the installation of a sprinkler system and changes to the drainage on site to accommodate any firefighting water/foam arising from an incident. One of the key recommendations of the risk assessment is to relocate the storage of plastic bales away from the side of the building, which this application seeks to regularise. NPPF paragraph 122 states “local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.” As the Environmental Permit seeks to minimise fire risk, it would not be appropriate to impose any additional planning conditions relating to such.

The applicant controls the office building and associated parking/hardstanding area to the north of Unit A. This accommodates all of the business’s needs for staff and visitor parking. This is safer as it reduces the risk of conflict between mobile plant, heavy goods vehicles, private motor vehicles and pedestrians. The area of hardstanding allocated for parking adjacent to the site entrance and shown on the approved drawing would be used to store large skips instead. These would not be visible from outside the site due to the height of the fencing.

Rockcliffe Parish Council has objected to the proposal making reference to a breach of operational hours at the site at Easter 2017. Conditions limit operating hours to between 7am and 6pm Mondays to Fridays. 7am to 3pm on Saturdays and no working (except essential maintenance) on Sundays, Bank or public holidays. This is the first complaint about operational hours that has been received by the County Council and following the matter being raised with the operator no further complaints have been received. There is no substantiated evidence or history of complaints to suggest that the operator is breaching the approved hours on a regular basis.

The alteration of the aggregates discharge belt from southern to western elevation reflects efficiency improvements in the recycling process as the site has expanded. Materials for recycling are taken to site K to be processed and are no longer stockpiled outside unit A. This has reduced the visual impact of this element of the operation, as on occasions in the past the stockpile had grown to unacceptable size before being processed and is therefore considered acceptable.

The alterations reflect the steady growth of North West Recycling’s business which contributes to meeting CMWDF policy CS8 which seeks to provide for net self-sufficiency for managing waste arising in the county.

The proposed changes are considered to meet CMWDF policies DC2 & DC3 and
CDLP policy CM5 in that it is an existing facility and the alterations would not lead to additional noise, or dust emissions. It is considered that this application would not lead to additional cumulative environmental impacts that have not already been considered as part of the assessment of previous applications.

7.10 The proposed changes also meet the requirements of CMWDF policy DC4 which sets out criteria for waste management facilities. The changes proposed would not bring operations any closer to sensitive receptors and reflect efforts to reduce harm should fire break out on the site.

7.11 The alteration of the location of the aggregate discharge belt makes it slightly more noticeable from the highway than it was previously. However, material coming off the belt is now removed from the discharge pile to be stockpiled/processed on site K, rather than simply accumulating as has happened previously and which is considered to be an improvement and is acceptable. The relocation of the plastic bales from the northern elevation to the proposed storage bays means they are not as visible from outside the site due to the height of the close board fence. Similarly the proposed relocation of the weighbridge would not be seen from outside the site. Overall the application represents a moderate improvement from a landscape / visual impact point of view and as such it is considered that the proposed changes comply with CMWDF policy DC12.

7.12 The proposal is considered to represent sustainable development and meets the objectives set out in the NPPF and complies with CMWLP Policy SP1 and CDLP Policy SP1.

Human Rights

7.13 The proposed changes would have a limited impact on the visual and environmental amenity of the area. Any impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1 of the Human Rights Act 1998) are minimal and proportionate to the wider social and economic interests of the community.

8.0 CONCLUSION

8.1 It is considered that the proposed development is in accordance with the policies of the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably be mitigated. It is therefore recommended that this application be granted subject to conditions set out in Appendix 1 to this report.

Dominic Donnini
Corporate Director Economy and Highways

Contact: Mr David Hughes, Kendal,
Tel: 01539 713422; Email: david.hughes@cumbria.gov.uk

Background Papers: Planning Application File Reference No. 1/17/9008

Electoral Division Identification: Longtown ED - Mrs Val Tarbitt
PROPOSED PLANNING CONDITIONS

Time Limit for Implementation of Permission

1. The development shall be carried out in accordance with the approved documents, hereinafter referred to as the approved scheme. The approved scheme shall comprise the following:
   a. The submitted Application Form – dated 20 December 2010
   b. Report ENW103 - dated January 2009
   c. Great Crested Newt Method Statement V 2_dated April 30th 2009
   d. Lorry routeing agreement – dated 4 August 2009
   e. Supporting Statement to this application – dated 14 December 2010
   f. Plans numbered:
      ENW103/3/01 Site Location Plan
      P.01.C-j- A2 Units A and B – Site plan rev 1.07
   g. This Decision Notice

The approved scheme shall be implemented in full.

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

Approved Scheme

2. No operations, including the loading or transportation of materials or operation of plant or machinery, shall take place on site outside the hours:
   - 07.00 to 18.00 hours Mondays to Fridays
   - 07.00 to 15.00 hours on Saturdays.

No loading or transportation of materials, or operations of plant or machinery shall take place on Sundays or on Bank or Public Holidays.

However this condition shall not operate so as to prevent the carrying out, outside these hours, of essential maintenance to plant and machinery used on site

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

3. All plant, machinery and vehicles used on site shall be effectively silenced at all times and maintained in accordance with the manufacturers’ recommendations.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site.
4. All vehicles under the site operators control that are fitted with reversing alarms shall use a white noise type

*Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site.*

5. All vehicles used to transport materials from the site onto the public highway shall be sheeted or otherwise covered.

*Reason: In the interest of local amenity and highway safety and to prevent release of litter on to neighbouring properties.*

6. Any litter arising outside the building within land controlled by the applicant shall be cleared up daily

*Reason: In the interest of local amenity and to prevent release of litter on to neighbouring properties.*

7. The 3m high close boarded wooden fences on the western and northern boundaries of the site shall be retained for the duration of operations on site and any damage repaired within 1 month of being reported.

*Reason: In the interests of visual amenity.*

8. Empty skips shall not be stacked more than 4 high in any area of the site.

*Reason: To minimise the visual impact of the development in accordance with MWDF Policy DC12.*

9. Stockpiles of aggregate intended for sale or other disposal outside the site shall not be stocked except where shown on the approved plan Site Plan rev 1.06. Stockpiles of aggregates shall not exceed 4m in height when measured above existing ground levels

*Reason: To minimise the visual impact of the development in accordance with MWDF Policy DC12.*

10. Baled materials shall not be stored except where shown on the approved plan Site Plan rev 1.06. External storage of baled materials shall not exceed 3m in height as measured above existing ground levels.

*Reason: To minimise the visual impact of the development in accordance with MWDF Policy DC12.*
11. Notwithstanding conditions 9 and 10, external storage of waste materials shall not exceed 4m or take place except where shown on the approved plans (P.01.C-j- A2 Units A and B – Site plan rev 1.07)

*Reason:* To minimise the visual impact of the development in accordance with MWDF Policy DC12.

12. The doors to the waste reception area on the east elevation shall be closed following each waste delivery unless a further waste delivery is scheduled to arrive within the following 30 minutes.

*Reason:* To minimise the impact of odour from the development in accordance with MWDF Policy DC2.
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<th>Application No: 2/17/9005</th>
<th>District: Allerdale</th>
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<tr>
<td>Applicant: Mr M Smallwood Snowhill Farm Caldbeck Wigton Cumbria</td>
<td>Parish: Boltons Parish Council</td>
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<td>Received: 10 March 2017</td>
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**PROPOSAL:** Section 73 application to Planning Permission 2/14/9007 to extend the life of the permission until 31 May 2022

**LOCATION:** Snowhill Quarry No.1, Snowhill Farm, Caldbeck, Wigton, Cumbria, CA7 8HL
1.0 RECOMMENDATION

1.1 That planning permission be **Granted** subject to the conditions set out in Appendix 1 to this report.

2.0 THE PROPOSAL

2.1 Planning permission is sought to extend the life of planning permission 2/14/9007. Planning permission was granted on 5 August 2014 to allow continued quarry at Snow Hill No. 1 quarry until 31 May 2017. The permission provided for the installation of a weighbridge, increase in vehicles numbers to 20 HGVs per day and increase in tonnage per year to 50,000 tonnes.

2.2 Access to Snow Hill Quarry is from B5299 which links the A595 at Mealsgate to Caldbeck.

3.0 SITE DESCRIPTION

3.1 Snow Hill Quarry occupies a rural location close to the Lake District National Park Boundary. The site consists of two quarries Snow Hill No 1 and Snow Hill No 2, the stone worked within No 1 is a rare white limestone and the stone worked in Snow Hill No 2 is sandstone.

3.2 The site is approximately 600m from the B5299 along a private access road. To the north, east and west of the quarry are agricultural fields to the south is Ellerbeck Common which forms part of Caldbeck Common.

3.3 The application site is classified as Limestone Foothills in Cumbria Landscape Character sub type.

4.0 SITE PLANNING HISTORY

4.1 Snow Hill No 1 quarry has operated since 1991 for the quarrying of Building Stone. The quarry produces a rare white limestone.

4.2 Snow Hill No 2 quarry has operated under a number of temporary planning permissions since 1991: application 2/91/0042 – Building stone quarry (approved 4 June 1991); application 2/02/9006 - Carrying out of development without compliance with the conditions of the planning permission 2/02/9006, for the extraction of limestone (application under Section 73 of the Town & Country planning Act 1990) (approved 5 February 2006); application 2/07/9006 - Extension to limestone quarry (approved 31 May 2007).

5.0 PLANNING POLICY

5.1 **Section 38(6)** of the **Planning & Compulsory Purchase Act 2004** provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.

5.2 The Cumbria Minerals and Waste Development Framework’s (CMWDF) **Core Strategy 2009-2020** (CS) and **Generic Development Control Policies 2009-2020** (GDCP) both adopted in April 2009. The key policies relevant to the determination of this planning application are considered to be:
5.3 The emerging Cumbria Minerals and Waste Local Plan 2015-2030 was subsequently submitted to the Secretary of State for examination by an independent Inspector on 9 September 2016. Hearing sessions for the examination were held between on 29 November and 16 December 2016. Following this, a Table of Main Modifications to the Plan was prepared and consulted on between 27 March and 5 May 2017. The Inspector is now in the process of finalising her Report on changes necessary to ensure that the Local Plan is sound and legally compliant. As the emerging plan progresses greater weight can be attached to it in the decision making process.

5.4 There are no currently adopted minerals and waste Site Allocations in Cumbria, as the previously adopted Site Allocations Development Plan Document was quashed by the High Court and therefore is not a material consideration.

- Policy S1 – Presumption in Favour of Sustainable Development
- Policy S14 – Rural Economy
- Policy S33 – Landscape

5.6 **Allerdale Borough Council Local Plan (Part 2): Site Allocations Development Plan Document** is currently being produced. The ‘Issues and Options’ for the Site Allocations was published in July 2014 and consultation on this document concluded in September 2014. A further consultation upon the additional sites submitted during the ‘Issue and Options’ concluded in February 2015. A consultation on the Preferred Options version of their Local Plan Part 2 document is scheduled in 2017.

5.7 **The National Planning Policy Framework [NPPF]**, published on 27 March 2012, and the national online **Planning Practice Guidance (PPG)** suite, launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF and/or PPG are considered to be relevant to the determination of this application:
- Paragraphs 6-10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Delivering Sustainable Development
  - Section 1 - Building a strong, competitive economy
  - Section 3 - Supporting a prosperous rural economy
  - Section 4 - Promoting sustainable transport
  - Section 13 - Facilitating the sustainable use of minerals
- Paragraphs 186-187 - Decision Taking

5.8 National Planning Policy Framework para 142 states “Minerals are essential to support sustainable economic growth and our quality of life. It is therefore...”
important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural source and can only be worked where they are found it is important to make best use of them to secure their long term conservation”. In this instance the material is the only local source of material and is essential to ensuring a local source of material is maintained and available for the local needs.

6.0 CONSULTATIONS AND REPRESENTATIONS

6.1 Allerdale Borough Council Planning Department: No objection.

6.2 Boltons Parish Council: No response received.

6.3 Caldbeck Parish Council: If permission is granted, request a condition preventing all heavy vehicles from driving through Calbeck or Hesketh Newmarket village and require them to bypass the villages via the C road over the common and join the B5299 at Blue Gate, and then onto the B5305. Currently the quarry quarries mainly large stones with aggregate being only a by-product. If the quarry were to produce mainly aggregate this would mean a big increase in crushing stone and could result in noise and dust.

6.4 CCC Highway Authority: No objection. Recommend that the current access should be drained and constructed to a suitable standard.

6.5 Allerdale Borough Council Environmental Health Department: No objection.

6.6 CCC Historic Environment Officer: Records indicate that the site lies in an area of archaeological potential adjacent to a field with probable remains of prehistoric settlement activity and agricultural practices. It is therefore considered that, despite the limited scope of the proposed development, if has the potential to disturb archaeological assets. In the event that planning permission is granted the site should be subject to archaeological investigation and recording in advance of development.

6.7 Environment Agency: Object. The applicant has not supplied adequate information to demonstrate that the risks to groundwater resources can be safely managed. Details of the maximum depth of excavation in metres above Ordnance Datum to ensure the depth of the quarry does not exceed the maximum permitted depth of excavation are required. The borehole log from the borehole that was drilled in 2014 to demonstrate the level of the water table at the site is also required.

6.8 Lake District National Park Authority: No objection. The proposal would not have a significant impact on the special qualities of the National Park.

6.9 Natural England: No objection.

6.10 Allerdale Ramblers Association: No response received.

6.11 The application has been advertised in the local press and by site notice on the site. The local county councillor was also notified.

6.12 No representations have been received.
7.0 PLANNING ASSESSMENT

7.1 The key planning issues relevant to the proposed schemes are considered to be: policy context; need for the mineral; landscape and visual impact; impact on highway; environmental considerations (noise, dust vibration).

Background to Snow Hill No 1 and No 2

7.2 Snow Hill No. 1 and No. 2 have operated since the early 1990’s as a small scale operation providing an essential unique stone for building work and repairs to dry stone walling in the locale. Snow Hill No. 1 received permission in 2014 (ref 2/14/9007, approved 8 August 2014) to extend the activities and promote the quarry as a local venture. The only activity which has progressed on Snow Hill No.1 site since the granting of permission ref 2/14/9007 has been the installation of the weighbridge.

Policy Context

7.3 Cumbria MWDF Core Strategy Policy CS 17 (Building Stones) states that ‘planning permission will be granted’ for proposals that would help to provide the full range of local building stones that are needed to maintain Cumbria’s local distinctiveness, provided they have ‘acceptable environmental impacts’. Cumbria MWDF Policy DC 6 (Criteria for Non-energy Minerals Development) expands on this by stating that ‘favourable consideration’ may be given to proposals relating to building stone quarries which meet the need for stone to match local vernacular building, and the conservation and repair of historic buildings. It also states that favourable consideration may be given to areas already subject to minerals extraction where the additional working will enable ‘comprehensive exploitation of the reserves, or where the proposal achieves a more sustainable afteruse or better restoration of the area’.

7.4 Cumbria MWDF Development Control Policy DC1 (Transport) requires developments to be well related to the strategic route network and are located to minimise operational “minerals and waste road miles”; Policy DC2 (General Criteria) requires developments must demonstrate noise, blast and air over-pressure levels are within acceptable limits; public rights of way not adversely affected and address ground stability; Policy DC3 (Cumulative Environmental Impacts) requires development proposals to be assessed in the light of other land uses in the area with consideration to impacts on local communities, environmental aspects, impacts on local amenity, number of vehicles generated; Policy DC10 (Biodiversity and Geodiversity) requires development which would have an impact to demonstrate their potential to enhance, restore and add to these resources and to functional ecological and green infrastructure networks; DC12 (Landscape) requires proposals to be compatible with the distinctive characteristics and features of Cumbria’s landscapes and should avoid significant impacts on the natural and historic landscape; ensure development proposals consider the effects on locally distinctive natural or built features; Policy DC16 (Afteruse and Restoration) requires developments to be accompanied with detailed proposals for restoration including proposals for appropriate afteruse.

7.5 Snow Hill No. 1 yields a rare white limestone, which is unique to the area and provides building/decorative stone for local construction projects.

7.6 Allerdale Local Plan (Part 1) Strategic and Development Management Policies
(July 2014) Policy S1 (Presumption in favour of sustainable development) requires development proposals to take a positive approach to work proactively with applicants to ensure developments can be approved and wherever possible improve economic, social and environmental conditions. The proposed continuation of working of the quarry would provide employment opportunities to a rural community and a continued supply of a local quality and unique stone for local building/repair works in the rural area; Policy S14 (Rural Economy) commits the Council to supporting economic prosperity and sustainability of rural communities and supporting the expansion of existing businesses. The continuation of operations would continue to provide a much needed local aggregate which can only be sourced where extracted; Policy S33 (Landscape) requires the landscape character and local distinctiveness of the area to be protected, conserved and where possible enhanced. Snow Hill No. 1 quarry is well screened from public viewpoints due to the existing landscaping which is in place to protect views particularly from the National Park.

7.7 In terms of policy and need the continued operations of Snow Hill No.1 for extraction purposes are considered to be essential to the local economy by ensuring a continued supply of a specific stone product which is recognised locally, as a mineral reserve. It is therefore considered that the proposed extension to amended working, extension and phased restoration of the site comply with both national and local development plan policies.

Need for the Continued Supply of Material

7.8 Section 13 (Paragraph 144) of the NPPF states that local planning authorities should ‘give great weight to the benefits of the mineral extraction, including the economy’. It also directs local planning authorities to ‘recognise the small-scale nature and impact of building and roofing stone quarries’, and ‘the need for a flexible approach to the potentially long duration of planning permissions reflecting the intermittent or low rate of working at many sites.’ The NPPF also provides a locational steer, stating a preference for extraction of building stone at, or close to, relic quarries.

7.9 Paragraph 142 of the NPPF states “Minerals are essential to sustaining economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource and can only be worked where they are found, it is important to make best use of them to secure their long term conservation”.

7.10 Paragraph 010 of the PPG states that “the suitability of each proposed site, whether an extension to an existing site or a new site, must be considered on its individual merits, taking into account issues such as : need for the specific mineral; economic considerations (such being able to continue to extract the resource, retaining jobs, being able to utilise existing plant and other infrastructure), and; positive and negative environmental impacts (including the feasibility of a strategic approach to restoration) and the cumulative impacts of the proposal in the area.”

7.11 Para 016 of the PPG states that “Minerals operators should look to agree a programme of work with the mineral planning authority which takes into account, as far as is practicable, the potential impacts on the local community and local environment (including wildlife), the proximity to occupied properties, and legitimate operations considerations over the expected duration of operations”.

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7.12 Para 017 of the PPG states that local planning authorities should ‘recognise that, compared to other types of mineral extraction, most building stone quarries are small-scale and have a far lower rate of extraction when compared to other quarries. This means that their local environmental impacts may be significantly less.’ The guidance also points out that quarries often therefore continue to operate for ‘a very long period.’ It is therefore considered that there is a continuing need for the mineral and for which the principle has already been established and accepted.

**Quarry Reserve**

7.13 The extension area approved in 2007 provided for around 120,000 tonnes of useable reserve. There has been very little extracted from the quarry over the last 10 years and it is estimated there is a reserve of around 110,000 tonnes still remain in the quarry for extraction. It is estimated that 50% would be used for building stone and the remainder would be used as either crushed or uncrushed aggregate.

**Landscape and Visual Impact**

7.14 Snow Hill No. 1 quarry is located in Cumbria Landscape Classification type 12b Rolling Fringe. The landscape consists of undulating topography, large fields of improved pasture, sparse tree cover with stream and rivers running through. The sub type is dominated by Carboniferous limestone overlain by glacial till. The landscape mainly comprises of large scale, rolling or undulating topography at altitudes of 150m-300m AOD.

7.15 Snow Hill No. 1 quarry is an existing operation which has been operating since the early 1990’s. The quarry is located on the hillside overlooking Caldbeck Common which forms part of the Lake District National Park. As part of the original planning permission a landscaping scheme was required to protect operations within the quarry from impacting on the character and appearance of the National Park. The scheme involved an avenue of trees from the farmstead along the access track and around the southern boundary of the quarry operations.

7.16 Visual impacts from the operations would mainly be HGVs travelling to and from the quarry to the highway. These impacts would be intermittent due to the restrictions on the number of HGVs permitted to leave the site and the presence of tree screening. These visual impacts are considered to be negligible when seen from the Lake District National Park. The development is therefore considered to comply with CMWLDF Policy DC12 Landscape and Allerdale Local Plan Part 1: Strategic and Development Management Policies 2014-2029 (ALP Part 1) - adopted July 2014 Policy S33 – Landscape.

**Highways and Transportation**

7.17 Snow Hill Quarries are located in a remote rural part of north Cumbria. Access to the quarries is via B5299 which connects onto the strategic road network of the A595 at Mealsgate and the B5305 at Sedbergham.

7.18 There is currently a condition which restricts the number of HGVs which leave Snow Hill No. 1 and No. 2 to 20 (40 movements) on a weekday and 10 (20 movements) on Saturdays with no working Sundays or Bank/Public holidays. It is proposed that this condition be retained to control HGV movements from the
quarry. Over a 12 hour operational day this would equate to 1.6 HGVs per hour.

7.19 Snow Hill No. 1 is accessed from the B5299 along an unmade track of approximately 590m. The applicant owns from the fell wall up to the quarries. However, the first 95m is in third party ownership (Caldbeck Commoners) which the applicant has a right of access over to the farm and the quarries. The applicant does not own or have a right to alter this section of access track; a Traffic Management Plan is proposed to ensure that any debris from this section of access track does not impact on the public highway and which could be controlled by condition.

7.20 Concern has been raised by Caldbeck Parish Council with regards to HGVs accessing the villages of Caldbeck and Hesketh Newmarket. A condition imposed on planning permission 2/14/9007 restricted HGVs from entering the villages. It is proposed to retain this condition to protect the amenities of residents of Caldbeck and Hesketh Newmarket.

7.21 CCC Highway Authority has raised no objection to the proposed development subject to a 10m section of the access track being appropriately surfaced to prevent loose material being deposited onto the county highway. As stated above, the section of the access track which adjoins the County highway is not in the ownership of the applicant. It is therefore proposed that a traffic management plan is put in place to ensure debris from this section of track does not impact on the amenities of users of the highway.

7.22 The development is considered to comply with Policy DC1 of the CMWLDF as the working of the quarry provides a valuable mineral resource unique to the area and which is used in the locale.

Working Depth

7.23 The time extension would see the quarry being worked as the previously approved scheme considered under 2/07/9006 approved 31 May 2007, which allowed a working depth of 264m AOD. There is no proposal to revise the approved scheme of working.

7.24 The Environment Agency has raised objection to the proposed development over the working depth of the quarry and requested further details of the maximum depth of excavation in metres above Ordnance Datum to ensure the depth of the quarry does not exceed the maximum permitted depth of excavation. The borehole log from the borehole that was drilled in 2014 to demonstrate the level of the water table at the site has also been requested. The details requested have been provided by the applicant and forwarded to the Environment Agency. Any further comments will be reported to the Committee.

7.25 Planning permission was granted in 2007 (Planning ref: 2/07/9006) to allow a working depth of 264m AOD. It is not proposed to amend the working depth. There has been no material change in circumstances since planning permission was previously granted. A condition is proposed requiring the quarrying operations to be carried out in accordance with the approved drawings and which restrict the depth of the quarry to 264 AOD. The borehole log does not identify the water table which is therefore assumed to be deeper than the permitted depth of extraction. It is therefore considered that the quarry would not have any adverse effect on the water table and is acceptable for the purposes of Policy DC14 of the CMWLDF.
Environmental Considerations

7.26 Noise: Noise would occur during quarrying operations from blasting and working of machinery within the quarry void. The direction of the wind would also play a part in noise travelling from activities within the quarry. The nearest properties to Snow Hill Quarry are Thistlebottom Farm 815m east and Snow Hill Cottage 570m south west. The control of activities within the quarry which generate noise could be controlled by conditions. Subject to such conditions, the development is considered to comply with Policy DC2 of the CMWLDF.

7.27 Dust: Dust could arise during dry and windy conditions. Snow Hill No. 1 quarry is a remote quarry located approximately 440m in a direct line from a highway (690m along access track). Controlling of dust from activities within the quarry could be achieved by a water suppression system. Dust may also occur from HGVs transporting minerals from the site. The control of dust from the site and from HGVs could be controlled by conditions. Subject to such conditions the development is considered to comply with Policy DC2 of the CMWLDF.

7.28 Vibration: Vibration could occur during quarrying activities relating to blasting and the breaking of rock. The nearest properties are 570m and 815m from the working of the quarry. There have been no complaints received with regards to vibration from activities in the quarry to date. The control of vibration from the activities could be controlled by condition. Subject to such a condition it is considered the proposed development would comply with Policy DC2 of the CMWLDF.

7.29 Ecological Impact: Snow Hill No. 1 quarry occupies a rural location close to the boundary of the Lake District National Park. The application site is not located close to any protected European Site. The nearest protected site is Lake District High Fells approximately 1.7km south and Overwater Site of Special Scientific Interest 4 km south west of the application site. Snow Hill No. 1 has no ecological significance. However trees have been planted as part of previous planning application to help screen the site from the Lake District National Park. This has provided a foraging area for bats and birds. Natural England has been consulted on the proposal and raised no objection. The development is considered to comply with Policy DC10 of the CMWLDF.

Other Considerations

7.30 Hours of Operations: The site currently has permission to operate between the hours of 07.00 to 19.00 Monday to Friday and 07.00 to 13.00 on Saturdays with no working Sundays or Bank/Public Holidays. It is proposed that these hours be retained and could be controlled by condition.

7.31 Impacts on the Amenities of Local Residents: The nearest residential property to Snow Hill No. 1 is Snow Hill Cottage 570m south west of the quarry. The property is protected from views from the quarry due to the orientation of the landscape and tree clusters. Any impacts of noise and dust would be controlled by conditions ensuring the amenities of the property are protected.

7.32 Impact on HGVs on the local highway network: The B5299 forms part of the strategic highway network for Cumbria. The restriction on the number of HGV’s using the site would equate to 1.6 per hour over 12 hour working day. Which is minimal in terms of overall traffic impacts. Concern has been raised by Caldbeck Parish Council with regards to HGV’s avoiding the villages of Caldbeck and
Hesketh Newmarket. A condition was previously imposed restricting HGVs from entering the villages. It is proposed to retain this condition to protect the amenities of residents of Caldbeck and Hesketh Newmarket.

7.33 Impacts on views from the Lake District National Park: Snow Hill No. 1 quarry is located approximately 370m north of the boundary with the Lake District National Park. Whilst the quarry can be seen from the boundary of the Lake District National Park a cluster of trees screen the operations from views from the National Park. It is therefore considered there would be no unacceptable visual impact when seen from the National Park.

**Human Rights**

7.34 The Human Rights Act 1998 requires the County Council to take into consideration the rights of the public under the European Convention on Human Rights. Article 8 of the Convention provides that everyone has the right to respect for his private life and home save for interference which is in accordance with the law and necessary in a democratic society in the interests of, amongst other things, public safety, the economic wellbeing of the country or the protection of the rights and freedoms of others. Article 1 of Protocol 1 provides that an individual’s peaceful enjoyment of his property shall not be interfered with save as necessary in the public interest and subject to conditions provided for by law. For any interference with these rights to be justified the interference needs to be proportionate to the aims that are sought to be realised. The County Council has a duty to consider the policies of the development plan and to protect the amenities of residents as set out in those policies.

7.35 The proposal would have a limited impact on the visual, residential and environmental amenity of the area but it is considered that those impacts would be insufficient to interfere with the rights of the applicant and satisfactory controls could be imposed on the proposed development to protect the amenities of the most affected residents. The impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1) would be minimal and proportionate to the wider social and economic interests of the community and could be satisfactorily controlled by planning conditions.

8.0 **CONCLUSION**

8.1 The operations at Snow Hill No1 Quarry were put on hold by the landowner to address other matters associated with Storm Desmond which damaged other business interests. The principle and acceptability of quarrying operations has previously been established. The reserve available in the quarry remains at around 110,000 tonnes thereby the operations of the quarry are limited.

8.2 The continuation of supplying a significant mineral to the local area provides a much needed source which is required in local building/construction programmes.

8.3 The proposed continuation of operations at Snow Hill No. 1 quarry accords with Local and National planning policy in that there is a need for the mineral that would continue to supply the local economy. Matters relating to transport, landscape and visual amenity and environmental impacts can be controlled by condition and subject to such are considered to comply with the policies of the development plan.
8.4 In summary, it is considered that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably be mitigated. Furthermore, any potential harm to interests of acknowledged importance is likely to be negligible and would be outweighed by the benefits of the development. It is therefore recommended that planning permission be granted subject to conditions.

Dominic Donnini  
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Background Papers: Planning Application File Reference No. 2/17/9005 
2/14/9007, 2/07/9006, 2/06/9023, 2/02/9006, 2/96/9010, 2/91/0042

Electoral Division Identification: Thursby - Mr DS Fairbairn
PROPOSED PLANNING CONDITIONS

Time Limit for Implementation of Permission

1. This permission shall be for a limited period only expiring on 31 May 2022, by which date the operations hereby permitted shall have ceased, all buildings, plant and machinery including foundations and hardstanding shall have been removed from site and the site shall have been restored in accordance with the approved scheme.

Reason: To secure the proper restoration of the site following the approved period for this temporary development, in accordance with Policy DC16 of the Cumbria Minerals and Waste Development Framework (2009).

Approved Scheme

2. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following:

   a. The submitted Application Form – dated 6 March 2017
   b. Planning Statement dated 2017
   c. Executive Summary
   d. Plans numbered and named:
      i) Site plan
      ii) Location plan
      iii) Extraction phase – SNF.03B
      iv) Final restoration – SNF.04B
      v) Development : Sections – SNF.05
   e. The details or schemes approved in accordance with the conditions attached to this permission.

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

APPROVED OPERATIONS PROGRAMME

3. The development shall be carried out strictly in accordance with the approved documents, hereinafter referred to as the approved scheme.

Reason: To ensure that the site is worked and restored in accordance with the approved scheme.

4. In the event that mineral working permanently ceases prior to the full implementation of the approved scheme, a revised scheme, to include details of the restoration, aftercare and timescale for the completion of the restoration works, shall be submitted for approval to the Mineral Planning Authority within 3 months of the cessation of working. Such a revised approved scheme shall thereafter be fully implemented.
Reason: To secure the proper restoration of the site in the event that operations cease prior to the full implementation of the scheme, in accordance with Policy DC16 of the Cumbria Minerals and Waste Development Framework (2009).

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other order revoking and re-enacting that Order), planning permission shall be sought and obtained from the Mineral Planning Authority, before any buildings, structures or erections, plant or machinery (other than those permitted by this permission) are erected on the site or on any ancillary mining land.

Reason: To maintain control over additional built development upon the site in the interests of amenity.

6. The operator shall keep a record of details of the total annual sales of minerals sold from the site. These records for the preceding year shall be submitted to the Mineral Planning Authority by 31 January each year.

Reason: To allow for the monitoring of the output limit.

7. Any crushing or screening plant used in connection with the sale and processing of quarry waste shall be of a mobile nature and shall be located entirely within the quarry void.


8. Any minerals intended for sale or other disposal outside the site shall be stocked either within the quarry void or within the curtilage of the existing barns at Snowhill Farm. The stockpiles shall not be visible outside the site.


HOURS OF OPERATION

9. No operations, including the winning and working of minerals, the loading or transportation of minerals or operation of quarry plant, shall take place on the site outside the hours:

- 07.00 to 19.00 hours Mondays to Fridays
- 07.00 to 13.00 hours on Saturdays.

No operations including the winning and working of minerals, the loading or transportation of minerals or operation of quarry plant, shall take place on the site on Sundays or on Bank or Public Holidays.

This condition shall not operate so as to prevent the use of pumping equipment and the carrying out, outside these hours, of essential maintenance to plant and machinery used on site.
Reason: To ensure that no operations hereby permitted take place outside normal working hours which would lead to an unacceptable impact upon the amenity of local residents, Policy DC16 of the Cumbria Minerals and Waste Development Framework (2009).

10. Screening, crushing and blasting shall only take place between the hours of 09.00 hours and 17.00 hours Monday to Friday. There shall be no crushing or screening on Saturdays or Bank/Public Holidays.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated by the operation is minimised and so does not constitute a nuisance outside the boundaries of the site, in accordance Policy DC3 of the Cumbria Minerals and Waste Development Framework (2009).

ACCESS AND TRAFFIC

11. There shall be no vehicular access to or egress from the site other than via the approved access.

Reason: To avoid vehicles entering or leaving the site by an unsatisfactory route.

12. The total number of laden heavy goods vehicles from Snowhill No. 1 and No. 2 Quarries shall not exceed 20 on any weekday and 10 on Saturdays. A record of all laden heavy goods vehicles and private vehicles leaving the site each day for a period of 12 months throughout the life of the operations shall be maintained by the operator and a made available for inspection to the Mineral Planning Authority during permitted working hours on request.

Reason: To keep to acceptable levels the impact of lorry traffic on the amenity of local residents and other road users, in accordance with Policy DC1 of the Cumbria Minerals and Waste Development Framework (2009).

13. No HGV leaving the site shall enter the public highway unless it is in a condition that will not cause mud or other debris to be deposited on the public highway.

Reason: To ensure that no material is deposited on the public highway in the interests of highway safety and local amenity, in accordance with Policy DC1 and DC3 of the Cumbria Minerals and Waste Development Framework (2009).

14. Within 3 months of the date of this permission a Traffic Management Scheme shall be submitted to and approved in writing by the Mineral Planning Authority. This must include measures for the protection of the highway verges; routing details; drivers manual; communication between HGV drivers on the highway; measures for cleaning HGV’s before entering the highway; measures to ensure the junction of the site with the B5299 remains free of debris as all times.

The approved Traffic Management Scheme shall be implemented in full.

Reason: In order to protect the safety of vehicular, animal and pedestrian traffic along the highway.
15. No HGVs accessing or leaving Snow Hill Quarry No.1 and No.2 shall travel through the villages of Caldbeck or Hesket Newmarket.

*Reason: In order to protect the safety of vehicular, animal and pedestrian traffic along the highway.*

**CONTROL OF NOISE AND DUST AND VIBRATION**

16. All plant, machinery and vehicles used on site shall be effectively silenced at all times in accordance with the manufacturers’ recommendations.

*Reason: To safeguard the amenity of local residents by ensuring that the noise generated by the operation is minimised and so does not constitute a nuisance outside the boundaries of the site, in accordance Policy DC3 of the Cumbria Minerals and Waste Development Framework (2009).*

17. All vehicles used to transport mineral from the site onto the public highway shall be sheeted so as not to deposit any mineral upon the highway.

*Reason: To ensure that material is not released into the air or deposited upon the public highway in the interests of highway safety and local amenity, in accordance with Policies DC1 and DC3 of the Cumbria Minerals and Waste Development Framework (2009).*

18. Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of 6 mm/sec in 95% of all blasts measured over any period of six months and no individual blast shall exceed a peak particle velocity of 12mm/sec as measured at vibration sensitive buildings. The measurement to be the maximum of three mutually perpendicular directions taken at the ground surface.

*Reason: To enable the Local Planning Authority to retain control over blasting at the site.*

**WORKING DEPTH OF THE QUARRY**

19. No winning or working of mineral shall take place below 264m AOD in accordance with Drawing SNF.05 dated Feb 2007.

*Reason: To ensure the site is worked in accordance with the approved working scheme.*

**SAFEGUARDING OF WATERCOURSES AND DRAINAGE**

20. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of the interconnected tanks, plus 10%. All filling points, vents, gauges and site glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be discharged downwards into the bund.
ARCHAEOLOGY

21. No development shall commence within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Mineral Planning Authority.

This written scheme will include the following components:

i) An archaeological evaluation to be undertaken in accordance with the agreed written scheme of investigation;

ii) An archaeological recording programme the scope of which will be dependant upon the results of the evaluation and will be in accordance with the agreed written scheme of investigation;

iii) Where appropriate, a post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the Planning Authority, completion of an archive report, and publication of the results in a suitable journal.

Reason: To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the preservation, examination or recording of such remains.

STRIPPING, STORAGE AND USE OF SOILS AND OVERBURDEN

22. All available topsoil and subsoil shall be separately stripped from any part of the site before it is excavated or traversed by heavy vehicles or machinery (except for the purposes of stripping that part or stacking topsoil on that part) and shall be stacked in a location to be agreed with the Mineral Planning Authority, prior to the commencement of any soil stripping operations.

Reason: To ensure that all the topsoil and subsoil is separately removed from the site prior to the commencement of excavations and to prevent any avoidable damage to the structure of the soils in accordance with Policy DC15 of the Cumbria Minerals and Waste Development Framework (2009).

23. The stripping, movement and resprreading of soils shall be restricted to occasions when the soil is in a suitable dry and friable condition and the ground is sufficiently dry to allow the passage of heavy vehicles and machinery over it without damage to the soils and the topsoil can be separated from the subsoil without difficulty.

Reason: To prevent any avoidable damage to the structure of the soils.

24. Each phase of every soil storage mound and screening mound shall be sown down to grass in the first available sowing season after their construction.

Reason: To reduce the washing away of soils in the interests of pollution control and in the interests of visual amenity, in accordance with Policy DC15 of the...
All topsoil and subsoil shall be retained on the site and none shall be sold off or removed from the site.

Reason: To ensure that all the available topsoil and subsoil are kept for use in the restoration of the site, in accordance with Policy DC15 of the Cumbria Minerals and Waste Development Framework (2009).

CONTROL OF WEEDS

All non-cropped areas of the site and all topsoil, subsoil and overburden stacks shall be kept free from noxious agricultural weeds and all necessary steps shall be taken to destroy such weeds at early stages of growth to prevent seeding.

Reason: To properly manage the site and to prevent the spread of weeds onto adjacent land.

RESTORATION

A detailed scheme for the revised restoration of the site shall be submitted for the approval in writing by the Mineral Planning Authority by 31 October 2017. The approved restoration scheme shall thereafter be implemented in full.

Reason: To reserve for future agreement the final restoration details for the site and to secure its proper restoration on completion of quarrying operations, in accordance with Policy DC16 of the Cumbria Minerals and Waste Development Framework (2009).

AFTERCARE

The site shall be subject to the requirements of an aftercare scheme under the provisions of Section 72(5) of the Town and Country Planning Act 1990. The scheme shall be submitted for the approval of the Mineral Planning Authority by 31 October 2020. The aftercare scheme requirements shall be carried out for a period of five years from the completion of restoration as certified in writing by the Mineral Planning Authority.

Reason: To secure the proper aftercare of the restored land and to allow its return to as high a quality as possible, in accordance with Policy DC16 of the Cumbria Minerals and Waste Development Framework (2009).

At least once each year during the aftercare period there shall be a formal review, under the provisions of Section 72(5) of the Town and Country Planning Act 1990, to consider the operations which have taken place on each restored phase and to agree a programme of management for the coming year which shall be adhered to by the operator. At least two weeks before the date of each review, the operator shall provide the Mineral Planning Authority with a record of the management and operations carried out on each phase during the period covered by the review and a proposed programme of management for the coming year.
Reason: To secure the proper aftercare of the restored land and to allow its return to as high a quality as possible, in accordance with Policy DC16 of the Cumbria Minerals and Waste Development Framework (2009).

30. From the commencement of the development to its completion a copy of this permission, including the approved documents and other documents subsequently approved in accordance with this permission, shall always be available on site for inspection during normal working hours. Their existence shall be made known to all operatives likely to be affected by matters covered by them.

Reason: To ensure all operators are aware of the approved scheme and the conditions attached to the permission.
Applications: Refs. 2/17/9006 & 2/17/9007

Applicant: Bolton Low Houses C of E Primary School
Parish: Boltons

Location: Bolton Low Houses Pre-school, Toddlers and Holiday Play Facility at Bolton Low Houses C of E Primary School, Bolton Low Houses, Wigton, CA7 8PA

Ref.2/17/9006: Removal of Condition 1 of Planning Permission 2/12/9009 to allow permanent retention of the portacabin structure housing the pre-school, toddlers and holiday play facility.

Ref.2/17/9007: Extension to, and recladding of, existing portacabin structure.
1.0 RECOMMENDATION

1.1 That:

a) Planning permission for the removal of Condition 1 of planning permission 2/12/9009 to allow permanent retention of the portacabin structure housing the pre-school, toddlers and holiday play facility be **Granted** subject to the conditions set out in Appendix 1 to this report (Ref. 2/17/9006); and

b) Planning permission for the extension to, and recladding of, the existing portacabin structure the subject of planning application 2/12/9009 be **Granted** subject to the conditions set out in Appendix 2 to this report (Ref. 2/17/9007).

2.0 THE PROPOSALS

2.1 Planning permission is sought to permanently retain the existing temporary building housing the pre-school, toddlers and holiday play facility located within the grounds of Boltons C of E Primary School (Ref. 2/17/9006); and to make a number of extensions to this building and re-clad it (Ref. 2/17/9007).

2.2 It is proposed to re-clad the existing building with vertically oriented timber boarding (a treated pine) and for this to be left to ‘silver’ down so as to result in a grey colour finish over time. The proposed board would be tongue and groove and would have a flat finish.

2.3 An extension measuring 5.9m x 3.8m is proposed to the south facing elevation of the existing building to provide a new office and a cloakroom. The extension would measure 2.85m in height to the eaves and 3.8m to ridgeline with a shallow pitched roof. It is proposed to clad the extension in vertically oriented timber boarding and to provide grey coloured upvc framed windows and a doorset with vision panels. The roof would be finished with smooth grey metal sheeting with welted upstanding joints. Black UPVC rainwater goods are proposed.

2.4 It is also proposed to provide a 1.5m wide flat-roofed canopy between the entrance door to the extension and the existing building corner-edge. A further canopy is proposed to be erected along a 5m length of the eastern (rear) side of the existing building with a level timber platform below. A 1.5m wide timber deck-board 1 in 20 gradient ramp with walk-sure coating and timber balustrade is proposed to be provided to the western side of the existing building. Both canopies are proposed to be open sided with timber supports and to be flat-roofed with light grey profiled metal sheeting. A 1.2m wide path would be provided around the extension surfaced with permeable block paving.

3.0 SITE LOCATION & DESCRIPTION

3.1 Bolton Low Houses Pre-school, Toddlers and Holiday Play Facility (the unit) is located within the southern end of the grounds of Bolton Low Houses C of E Primary School. The Primary School is located at the southern edge of the small village of Bolton Low Houses on the U2137. The school is approximately 1km from the A595 and lies approximately 2.5miles from Wigton.

3.2 The existing unit is a single storey freestanding structure white in colour that has now been in place for approximately 13 years. It measures approximately 13.5m x 8.5m in footprint and 3m in height to the eaves. It originally had a flat roof but now has a low-pitched roof clad in mid-grey-blue corrugated metal sheeting. The
ridgeline stands 4.2m above ground level. The external walls are clad in a white plastic material. This cladding is still serviceable after 13 years, but some details are beginning to deteriorate. The unit has its own independent highway access and tarmacked parking area with 15 parking spaces. This has a wide swept access and is double-gated with two timber field gates. An area of highway verge that runs for 20m outside the unit has been surfaced with grasscrete and is used for pupil drop-off / collection.

3.3 The unit also has its own external play areas with a mixture of permeable block paving and grassed areas. These are demarcated by 1.8m high picket fences.

3.4 The unit’s grounds are bounded by hedgerow to the west. This is thick and mature for the majority of the length of the unit’s grounds, the only exception being a former pedestrian access which has been closed-up and where the new hedgerow there is still establishing. Wooden screening has been attached to the black metal gate at this location to shield this area from view in the intervening time. Beyond the western hedgerow is a grass verge with a number of laybys. Where laybys are not present there is a notable level of erosion to the outer edges of the grass verges along the school side. These verges form the sides of the U2137. Three residential properties are located on the western side of the road. The nearest of these dwelling-houses lies 31m to the north-west of the unit building. The curtilage of this dwelling lies approximately 13m from the units’ grounds. The boundary of the dwelling is demarcated by an approximately 1.5m high sandstone wall. The grass verges to this wall have been fenced-off with plastic posts and string.

3.5 A small watercourse within a ditch runs along the southern boundary 11m from and fenced-off from the unit. Trees and mature hedgerow are present along the southern bank of the watercourse. The unit is bounded by playing-field to the east and the hard surfaced playground area of the primary school to the north.

3.6 Due to the thickness and height of the planting to the western and southern sides of the unit there are minimal views of the building from the highway. However glimpses are available from a number of points and the brilliant white colour of the cladding does not assist the unit in blending into its locale.

4.0 SITE PLANNING HISTORY

4.1 Planning permission was first granted for the siting of a portakabin in the south-western corner of the grounds of Boltons C of E School for a limited five year period in September 2004 (Ref. 2/04/9037). There have subsequently been a number of time extension applications and permissions for the retention of the unit. Planning permission to retain the unit for a further 2 years was granted by the Committee in February 2010 (Ref. 2/09/9026). The committee report on this application stated that the additional time was: "...in order for the pre-school to either make alternative arrangements for the permanent relocation of this thriving facility or for measures to be put in place to make continued use of the existing location acceptable. This could include providing a permanent building and development of on – site parking at the school".

4.2 A further time extension application (Ref. 2/12/9002) was submitted on 18 January 2012 but withdrawn on the 2 February 2012; and a replacement application (Ref. 2/12/9005) was submitted but refused on the 19 June 2012 due to predominantly highways issues (lack of a safe and suitable access and failure to mitigate impacts of road traffic or maintain a high quality environment). A
further application was submitted on 1 August 2012 (Ref. 2/12/9009). This application sought a five year time extension and made provision for the construction of a new car park containing 15 parking spaces, altered access arrangements, a vehicle waiting area on the verges, screen planting to the site boundary and a schedule for maintenance and repair of the existing portacabin building. The proposals also include a travel plan with a “one way” vehicular route, staggered drop-off schedules and monitoring plan with targets. The Committee resolved to grant planning permission on 29 August 2012. This permission was conditional upon the implementation of all of the proposed measures referred to above. All of the required works were completed. The planning permission expires on 31 July 2017.

4.3 Prior to September 2004 the unit operated out of Bolton Low Houses Village Hall. However the then hall was condemned as being unfit for purpose that year and was closed prior to redevelopment. At the time of the 2004 planning application it was thought that the Unit would return to village hall once it was redeveloped.

4.4 The re-developed village hall did not provide sufficient facilities required to meet Ofsted regulations for such units. The applicant was unable to find any other suitable sites in the locality to relocate to between 2004 and 2009. Arrangements were put in place to raise funding to erect a permanent building within the grounds of the school. In 2012 funding for a new purpose built facility at the rear of Bolton Low Houses School was still being sought.

4.5 In 2015 a bid to the National Lottery for a replacement building was unsuccessful. Bids to a further 65 grant giving organisations yielded some promises of support but the funding required (estimated to be £240,000) to replace the existing building could not be met leading to the current proposals.

5.0 NATURE OF THE OPERATION

5.1 Although the unit can only house 24 children at one time, it has 150 children on its register and provides pre-school, playgroup and holiday play schemes for children for 51 weeks of the year. The facility has unrestricted access and currently serves a catchment area of 25 miles. The unit supports the existence of the primary school as it helps attract children to the school and also provides child care for staff at the primary school.

5.2 The applicant reports that demand for places in their unit remains high and that they have been fully subscribed for the past three years.

6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.


- Policy S1 - Presumption in Favour of Sustainable Development
- Policy S2 - Sustainable Development Principles
- Policy S3 - Spatial Strategy and Growth (N.B. This designates Bolton Low Houses as a Limited Growth Village)

6.4 Allerdale Borough Council Local Plan (Part 2): Site Allocations Development Plan Document is currently being produced. A consultation on the Preferred Options version of this document took place between 27 January and 24 March 2017. This document shows the school as being outside Bolton Low Houses existing and proposed settlement limit. Therefore there are no proposed land allocations within this relevant to this proposal.

6.5 The National Planning Policy Framework [NPPF], which was published on 27 March 2012, and the national online Planning Practice Guidance (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF are considered to be relevant to the determination of this application:

- Paragraphs 6-10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Delivering Sustainable Development
  - Section 3. Supporting a prosperous rural economy
  - Section 4. Promoting sustainable transport
  - Section 7. Requiring good design
  - Section 8. Promoting healthy communities
  - Section 11 - Conserving and enhancing the natural environment.
- Paragraphs 186-187 - Decision Taking

7.0 CONSULTATIONS AND REPRESENTATIONS

7.1 Allerdale Borough Council Planning Department: No objection to either application. Consider there is adequate room to accommodate the extension and that the proposed design and timber cladding is acceptable and appropriate to its location.

7.2 Allerdale Borough Council Environmental Health Department: No response received.

7.3 Boltons Parish Council: Support the applications. Recommend that the existing grasscrete is extended from the entrance gates up to the top of the road and that there is confirmation that the additional structural surveys have been carried out.

7.4 CCC Active Travel: Satisfied with the content and coverage of the submitted School Travel Plan.
7.5 CCC Children’s Services – Early Years Team: Support the applications. State that the provider contributes significantly to the Council’s statutory duty to ensure sufficient childcare provision in relation to Childcare Act 2006.

7.6 CCC Highway Authority: No objection to both applications. Recommend that further formalised spaces are provisioned along the highway verge to prevent damage to this.

7.7 CCC Lead Local Flood Authority: No comment.

7.8 Cumbria Constabulary’s Crime Prevention Design Advisor: Provides advice in respect of measures to reduce the opportunities for crime.

7.9 British Telecom: No response received.

7.10 Electricity North West: Highlight that there is an underground electricity service cable running to the building that is proposed to be altered and that a safe working distance must be maintained from this at all times and safe digging techniques practised. If necessary, the developer can apply to have this moved or decommissioned prior to any building works.

7.11 Northern Gas Networks: No objection to either application.

7.12 United Utilities: No response received.

7.13 The application has been advertised by site notice. The neighbouring properties and the local county councillor were also notified.

7.14 Nine representations have been received. Eight representations support the retention of the unit and the service it provides maintaining that its loss would have an unsettling affect upon children currently in attendance and upon their families, and that the unit is part of the community. One representation has been received objecting to the proposal for the following summarised reasons:

- The submitted Travel Plan does not fully represent the current situation with regard to the parking and traffic issues in the immediate vicinity;
- That the mitigation measures contained in the Travel Plan do not appear to be being put in place;
- The application ought to contain measures to mitigate the ongoing damage to the highway verges;
- There is no detailed evidence included in the application that supports the claim that the building is structurally sound and will be adequate for at least 20 years;
- It is no longer a temporary structure as it was always intended to be;
- The building has not been exposed for detailed inspection at the time the report was written;
- The building has already been in place for 12 years and it was not a new building when it was first erected in the school grounds;
- ‘Portakabin’ (who may or may not have provided the original unit) only give a structural warranty of 30 years for portable buildings;
- The safety of the structure is questionable.
- No detail has been provided to accompany the application in relation to the construction phase in respect of construction access to the site, working hours, traffic and/or noise control, reinstatement of any damage to verges etc. that might result from the works;
- The timber clad building would be more likely to be aesthetically acceptable, but it is disappointing that no photomontages or examples of other buildings clad with the proposed material are included with the application;
- If the proposal is approved the hours of work should be restricted by condition so that they do not start any earlier than 08.30 and continue no later than 18.00.

8.0 PLANNING ASSESSMENT

8.1 Planning permission is sought to retain the unit on a permanent basis and to undertake refurbishment and extensions to the unit.

8.2 The County Council has a statutory duty under the Childcare Act 2006 to provide sufficient childcare to meet the needs of parents and carers to work or access training. Paragraph 72 of the NPPF attaches great importance to ensuring that a sufficient choice of school places is available and instructs Local Planning Authorities (LPAs) to take a proactive, positive and collaborative approach to meeting this requirement and to development that will widen choice in education. It also directs that great weight should be given to the need to create, expand or alter schools. It also sets out that LPAs should work with schools promoters to identify and resolve key planning issues before applications are submitted. It is considered these provisions also apply to pre-school or after-school provision.

8.3 Policy S2 of the ALP Part 1 supports the delivery of school facilities and life-long learning through providing opportunities and the provision of up to date facilities. Policy S15 of the ALP Part 1 seeks to proactively plan for the provision of schools in the right location and of sufficient size for future population requirements. Paragraph 263 of the ALP Part 1 recognises that community facilities such as schools are at the heart of a thriving, sustainable and inclusive society and that this is particularly relevant in rural areas where these facilities not only provide for peoples day to day needs, but also provide a source of social and cultural interaction. Paragraph 264 continues that “the (district) Council will protect these valuable services, encourage the creation of new facilities and support improvements and enhancements to those existing. Facilities should be of a scale appropriate to the size of the settlement in accordance with the spatial strategy.” Paragraph 265 states that the (district) Council encourages the sharing of facilities. The unit has developed a close operational relationship with the primary school whereby each benefits the other. It is considered the retention and improvement of the unit accords with the local plan policies which support life-long learning, rural community facilities and improvements to existing educational facilities.

8.4 The majority of the issues with this facility have been resolved over the course of the past planning applications for its temporary retention. The site now benefits from much improved visual screening and the highways impact of the unit has been vastly reduced by the provision of off-highway parking, the grass-crete layby for pupil pick-up and drop-off and continued implementation of the pro-active management measures in the annually updated School Travel Plan. Consequently it is considered the main outstanding issues are the structural integrity of this existing temporary building and the impact of its incongruent visual appearance if it were to be retained on a permanent basis.

Structural Integrity of the Existing Building

8.5 The unit was inspected by structural engineers in November 2016. Unlike most
portacabin structures the unit has a light weight steel frame. The inspection concluded the building to be in good structural condition. Subject to exposure of the structure to fully verify the condition of the full steel during the re-cladding process and a suitable maintenance regime, the inspection concludes that the building could remain structurally adequate for at least a further 20 years. On this basis the applicant seeks to remove the time limit for the use of the building and retain it on a permanent basis. However the caveats of the letter are duly noted, as is the fact that a new permanent building would be expected to have at least a minimum of a 50-60 year life-span. Given this, it is considered that planning permission for retention of this unit should remain time-limited, but that it is appropriate to extend the duration to reflect the likely minimum 20 year remaining life of the existing steel frame structure rather than granting planning permission on a permanent basis. This time period would allow greater certainty for the unit to invest in its existing premises and would also allow for the condition of this unit to be re-assessed (and if necessary, addressed) at that future point in time or for proposals for a new build permanent built building to be brought forward. Conditions are therefore proposed to limit the use of the portacabin building, and its proposed extensions which are the subject of planning application ref 2/17/9007, until 31 July 2037 and require the building to be removed in the event it is no longer structurally sound or required.

8.6 The submitted structural survey is considered to provide sufficient detail to demonstrate the future structural longevity of the portacabin’s steel frame. Structural stability of buildings is a matter controlled under other legislation / regulatory regimes such as Building Control and Buildings Insurance. Structural stability is not a material planning consideration. In the event the structure is deemed unfit for purpose at any point prior to 2037 it would be the responsibility of the owner to repair or remove the unit. Should a replacement unit be required it would require planning permission.

Design / Visual Impact

8.7 Policies DM14 and DM15 of the ALP Part 1 require a high standard of design for buildings and their extensions. Policy DM14 requires development to “respect and respond positively to the distinctive qualities of the location and integrate with the characteristics of the site, ensuring that all external materials and boundary treatments are appropriate to the design and distinctiveness of the development, site and location.” It is considered that the application of timber cladding to the existing unit and the proposed extension would vastly improve the external appearance of this facility; especially when it has naturalised to a silvery grey as a result of exposure to UV light; helping it better blend into its rural locale and ensure the screen planting to the site works effectively. As such it is considered that the re-cladding of the unit would make its visual appearance more acceptable in this location. Because the cladding of the building and extension would be important to ensure the visual improvement and acceptability of the retention of the unit, a condition is proposed to require the cladding to be undertaken promptly and in any event within 18 months from the date of any planning permission.

8.8 Policy DM15 states that applications for extensions to existing buildings will be permitted where:

a) The scale, design and materials of the development would not adversely alter the appearance of the existing building;
b) The development achieves a satisfactory visual and architectural relationship with adjoining development and/or the character of the area;

c) The extension would not become the dominant feature of the building;

d) The extension will not result in overdevelopment of the curtilage of the property;

e) The extension would not materially harm the amenity of the occupants of neighbouring or adjacent properties;

f) The operational car parking needs of the property would continue to be met.

The use of timber cladding to the extension would be in-keeping with the existing building as proposed to be re-clad. The extension is of a smaller scale to the existing building and replicates its form. Given this, it is considered to be visually and architecturally in-keeping with the existing building and acceptable. The large grounds of the primary school mean this small extension would not constitute over-development within its curtilage. The proposed extension would be located centrally to the southern side of existing building. As such it would not bring the existing building closer to any existing residential dwellings and not result in any overlooking or any other harm to the amenity of nearby dwellings. Nor would it result in the loss of any car parking spaces. The proposed canopies would be located to the rear/back sides of the building and as such would have negligible visual impact. The proposals are therefore considered to comply with Policy DM15 of the ALP Part1.

Other Planning Considerations

8.9 Other key planning issues are considered to be Highways related matters (Road/Pedestrian safety, Traffic and Parking); Drainage/Flood Risk, Crime Prevention, and matters associated with the operation of the unit and the construction phase.

8.10 **Highway Safety, Traffic and Parking:** The proposals would not increase staff or pupil numbers beyond those as existing and would not affect the existing parking provision. As such they would not result in any additional impacts on the highway beyond that existing.

8.11 The applicant has submitted yearly updates of the School Travel Plan in accordance with Condition 6 of planning permission 2/12/9009. From these, the updated School Travel Plan submitted with the application, and discussions with the applicant, it is evident that the applicant has gone to some lengths to manage the drop-off and collection of pupils so as to minimise the impact of traffic on the local highway network. The Travel Plan includes an advisory one way system for parents, regular communication to parents about safe parking, car sharing, staggering of drop off and pick up times, and proactive management and monitoring of traffic unit related traffic including use of staff as banks-persons to minimise congestion. A condition is proposed to require the continued annual update and review of the Travel Plan to ensure the traffic impact of the unit is minimised as far as is practicable.

8.12 Despite these efforts, areas of verge north and south of the site access and existing grasscrete verge are heavily eroded as a result of cars using the areas for dropping off and picking up children. The grasscrete area looks neat and tidy. However, the adverse visual impact of the rutted highway verge either side of the grasscrete area is considerable. Whilst the verges to the north are likely to be partially related to the primary school use, and there is some evidence of wear and tear by other users (residents and agricultural) to both sides, it is considered
that the damage to the length of verge south of the grasscrete is more likely to have resulted from vehicles associated directly with the unit. It is therefore proposed to extend the reinforced surfacing southward along the verge from the existing grasscrete area so as to run parallel to the full frontage of the childcare unit’s grounds. A condition is also proposed to require this to be implemented within two years from the commencement of the use hereby permitted so as to ensure the area is not damaged during the construction phase and so as to allow a reasonable amount of time for the work to be undertaken.

8.13 **Drainage/Flood Risk:** The proposed extension would be set-back from the watercourse by at least 8m. Given its minimal footprint it is considered that it would have negligible impact in terms of surface water discharge. Therefore it is considered that the proposed retention of the existing unit and its’ extension would not have any adverse impact on the water environment and complies with policy S29 of the ALP Part 1.

8.14 **Crime Prevention:** The site makes clear distinctions between public and private spaces and provides opportunities for natural surveillance at the sites access point. The proposed extension would allow better vision, scrutiny and control over visitors and the exterior doors and windows to this would be compliant with PAS 24:2016 (Enhanced security performance requirements for doorsets and windows in the UK). As such the proposed extension would provide for a safer environment which maximises personal safety and minimises opportunities for crime and antisocial behaviour. The proposed retention of the existing unit and its extension are therefore considered to comply with Policies S4 and DM14 of the ALP Part 1.

8.15 **Operational Matters:** The existing facility operates from 8.00am to 5.30pm Mondays to Fridays and employs 5 full-time and 7 part-time staff. The facility is closed at weekends and on Bank Holidays. The proposed retention of the building and extension would not alter these operational hours or result in any increase in staff numbers.

8.16 **Construction Phase:** It is intended that the unit would temporarily utilise the Primary School premises over the holiday period whilst the re-cladding of the existing building takes place. Conditions are proposed limiting the hours of working for the re-cladding and the construction of the extension in order to protect the amenity of nearby properties. Concerns have been expressed by a nearby resident that the application lacks detail in respect of the means by which cladding and construction of the proposed extension would be carried out. Whilst issues arising from the construction phase of building works can be controlled via planning conditions, they are not material considerations relevant to the determination of planning applications in themselves.

8.17 **Human Rights:** Given the location, nature and purpose of the proposed retention of the unit and extension thereto, no convention rights as set out in the Human Rights Act 1998 would be affected.

9.0 **CONCLUSION**

9.1 On the basis that the building and proposed extension are not permanent forms of development and therefore their permanent retention cannot be supported, it is considered acceptable to extend retention of the unit for a further twenty year period in light of the structural information submitted to date and the proposed re-cladling of the building which would improve its visual appearance and further
highway improvements in terms of extending the reinforced layby area.

9.2 The proposed small extension to the unit would provide additional and improved space. The proposed design is acceptable and it would not impact upon local amenity and would not result in any increase in staff or pupil numbers.

9.3 It is therefore considered that the proposed retention of the unit for a further extended temporary period and the proposed extension are acceptable and in accordance with the policies of the development plan, there are no material considerations that indicate the decisions should be made otherwise and with the planning conditions proposed, any potential harm associated with visual appearance of the unit and extended grasscrete on the highway would reasonably by mitigated. It is therefore recommended that planning permission be granted for the retention of the portacabin building for a further limited period and the extension to the building subject to the conditions set out in appendix 1 and 2 respectively.

Dominic Donnini
Corporate Director Economy and Highways

Contact: Mr Edward Page, Tel: 01539 713 424

Background Papers: Application File Reference Nos. 2/17/9006 and 2/17/9007

Electoral Division Identification: Aspatria ED - Mr J Lister
PROPOSED PLANNING CONDITIONS - REF NO. 2/17/9006

Time Limit
1. The use of the portakabin structure hereby permitted shall be for a temporary period only expiring on 31 July 2037. The permitted portakabin structure, and all hardstandings, shall be removed from the site and the site restored to school recreation use by 1 September 2037.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

Re-Cladding
2. The portacabin structure hereby permitted shall be re-clad in accordance with the details specified within the approved scheme by 31 August 2018.

Reason: In the interests of good design and visual amenity and in order to make the appearance of the building acceptable to the extent that it may be retained for a longer period of time.

Notifications
3. Written notification shall be provided to the County Planning Authority of the date of each of the following within one week of their commencement:
   a. The commencement of re-cladding of the existing building;
   b. The commencement of the works to extend the reinforced highway verge area;

Reason: To enable the County Planning Authority to monitor the development to ensure compliance with this permission.

Approved Scheme
4. The unit shall be clad and maintained in accordance with the following approved documents:
   a. The submitted Planning Application Form - dated 26 July 2012;
   b. Planning Statement - dated March 2017;
   c. Letter dated 24 November 2016 re Structural Inspection;
   d. Planting Details (Revised)- dated August 2012 – submitted with letter dated 23 August 2012;
   e. Drawing No. DWG BLHP 02 B (a)- Proposed Block Plan and Highway Details;
   f. Drawing Ref. BLH/SLP/2012/01 – Site Location Plan – dated February 2012;
   g. Revised Travel Plan Statement – dated September 2016;
   h. Email dated 13 April 2017 in respect of cladding details;
   i. Drawing No. BLHP 02 B – Highways Details Relating to Extended Parking Area – submitted 4 June 2017

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved
Hours of Work for Re-Cladding

5. No materials shall be delivered to or removed from the site and no works to re-clad the unit shall not take place outside the hours of 08.00 to 18.00 on Mondays to Fridays and 08:00 to 13:00 on Saturdays.
   No materials shall be delivered to or removed from the site and no works shall take place on Sundays, Bank or Public Holidays.

   Reason: To protect the amenity of nearby properties.

Landscaping Rentention and Maintenance

6. The western boundary hedgerow planting shall be retained throughout the life of the use of the building hereby permitted and shall be maintained at a height of no less than 3m to screen the building from view from outside the site.

   Reason: In the interests of visual and local residential amenity.

Access and Parking Maintenance

7. The access drive and parking area shall be maintained free of potholes throughout the life of the use hereby permitted.

   Reason: In the interests of highway safety.

Annual Review of Travel Plan

8. Annual Monitoring Reports of the Travel Plan shall be undertaken on or before the 30 September of each year for the life of the portacabin building and made available for inspection within 7 days of a written request by the County Planning Authority for such.

   Reason: In the interests of highway safety.

Extension of Vehicle Pull-in area along the Highway Verge

9. The reinforced verge to the highway located to the south of the highway access to the childcare unit shall be extended southwards to the boundary of the childcare unit’s grounds as shown and specified on Drawing No. BLHP 02 B – Highways Details Relating to Extended Parking Area – submitted 4 June 2017 by no later than 18 July 2020.

   Reason: To reduce the operational impact of the unit on the highway and its’ verge.
PROPOSED PLANNING CONDITIONS - REF NO. 2/17/9007

Time Limit for Implementation of Permission

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

Time Limit

2. The extension hereby permitted shall be used for a temporary period only expiring on 31 July 2037. The extensions, and all hardstandings, shall be removed from the site and the site restored to school recreation provision by 1 September 2037.

   Reason: To comply with Section 72 of the Town and Country Planning Act 1990.

Notifications

3. Written notification shall be provided to the County Planning Authority of the date of each of the following within one week of their commencement:
   a. The commencement of construction of the extension;
   b. The commencement of the use of the extension hereby permitted;
   c. The commencement of the works to extend the reinforced highway verge area;

   Reason: To enable the County Planning Authority to monitor the development to ensure compliance with this permission.

Approved Scheme

4. The development shall be carried out in accordance with the following approved documents:
   a. The submitted Planning Application Form - dated 31 March 2017;
   b. Planning Statement - dated March 2017;
   c. Site Location Plan;
   d. Drawing No. DDM02bPL – Proposed Elevations and Floor Plan;
   e. Drawing No. DDM03PL – Existing and Proposed Site Plan;
   f. Revised Travel Plan Statement – dated September 2016;
   g. Email dated 13 April 2017 in respect of materials details;
   h. Drawing No. BLHP 02 B – Highways Details Relating to Extended Parking Area – submitted 4 June 2017.

   Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

Restriction on Use
5. The built extension hereby permitted shall not be used as classroom space.

Reason: *To ensure no intensification in pupil numbers and thereby increase in traffic to the site.*

**Construction Phase: Hours of Work**

6. No construction work, delivery or removal of materials shall take place on the site outside the hours of: 08.00 to 18.00 on Mondays to Fridays and 08:00 to 14:00 on Saturdays. No construction work, delivery or removal of materials shall take place on Sundays; Bank Holidays and/or other Public Holidays.

Reason: *To protect the amenity of nearby properties.*

**Extension of Vehicle Pull-in area along the Highway Verge**

7. No later than two years from the commencement of the use of the extension hereby permitted the reinforced verge to the highway located to the south of the highway access to the childcare unit shall be extended southwards to the boundary of the childcare unit’s grounds as shown and specified on Drawing No. BLHP 02 B – Highways Details Relating to Extended Parking Area – submitted 4 June 2017.

Reason: *To reduce the operational impact of the unit on the highway and its’ verge.*
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Application No: 4/17/9006
District: Copeland

Applicant: Cumbria County Council
Parkhouse Building
Kingmoor Business Park
Carlisle
Parish: St. Bees Parish Council
Received: 29 March 2017

PROPOSAL: A single span footbridge to be installed over Pow Beck that will be 12 metres in length and 1.5 metres in width. Stone surface ramps to be built at each end to provide access. To include diversion of Public Footpath numbered 423012 onto the new footbridge and temporary construction compound to the car park.

LOCATION: Land Beyond the End of Seamill Lane near St Bees, Seamill Lane, St Bees
1.0 RECOMMENDATION

1.1 That planning permission be Granted subject to the conditions set out in Appendix 1 to this report.

2.0 THE PROPOSAL

2.1 Planning permission is sought to construct a new footbridge over Pow Beck, Sea Mill Lane, St Bees.

2.2 The footbridge would measure 12m x 1.5m and would be constructed of steel support beams with timber footbridge, handrails and concrete ramps/abutments. Access to the footbridge would consist of concrete ramped access. The footbridge would be of a single span construction. Permission is also sought for a temporary construction compound.

3.0 SITE DESCRIPTION

3.1 Pow Beck is located to the south west of St Bees, running from Stanley Pond to the north of St Bees and connecting into the Irish Sea. The footbridge is proposed to link the car park and coastal walks and public rights of way no 423012. The existing concrete footbridge located further downstream and closer to the sea was damaged during Storm Desmond.

4.0 SITE PLANNING HISTORY

4.1 There is no planning history relative to the proposed application site.

5.0 PLANNING POLICY

5.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision.


- Policy ENV1 – Flood Risk and Risk Management
- Policy ENV6 – Access to the open countryside

5.2 The National Planning Policy Framework [NPPF], which was published on 27 March 2012, and the national online Planning Practice Guidance (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF and/or PPG are considered to be relevant to the determination of this application:

- Paragraphs 6-10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Delivering Sustainable Development
  - Section 7 - Requiring good design
  - Section 10 - Meeting the challenge of climate change, flooding and coastal change
- Paragraphs 186-187 - Decision Taking
6.0 CONSULTATIONS AND REPRESENTATIONS

6.1 Copeland Borough Council Planning Department: No objection subject to the bridge being DDA (Disability Discrimination Act 1995) compliant.

6.2 St. Bees Parish Council: Supports the construction of the new bridge in a position where it will be less susceptible to storm damage. The council is concerned that the diversion of the footpath could mean that there will be no right of way access to the beach on the north side of the existing bridge. It is not clear that from the plans that there will be such access in the future. Access from the north, to the beach to the north of the existing bridge and to the new footbridge to proceed south, are both necessary to preserve the current level of public amenity. The Parish hopes that a way can be found to allow walkers to continue to access the beach to the north of the new bridge.

6.3 CCC Highway Authority: No objection; the proposed bridge will not affect the highway.

6.4 CCC Lead Local Flood Authority: No objection; the proposal poses no flood risk.

6.5 Copeland Borough Council Environmental Health Department: No response received.

6.6 Environment Agency: No objection.

6.7 Natural England: No objection. The detail in the construction method statement is satisfactory that there will be no significant effect on any designated sites.

6.8 Marine Management Organisation: The works fall outside the Mean Spring High Tide mark.

6.9 Network Rail: The siting is close to existing operational railway. In order to facilitate its layout and design, works may need to be undertaken within 10m of the railway line and therefore in order to ensure that these works do not impact upon the safety, operation and integrity of Network Rail land, the developer will need to undertake some additional works with regards to risk assessment of all works; agreement of all excavation and earth works within 10m of railway boundary; Vibro-compaction machinery/piling machinery and ground treatment works and Basic Asset Protection Agreement.

6.10 Copeland Ramblers: No response received.

6.11 Cumbria and Lakes Local Access Forum: The newly positioned bridge would be a short distance upstream of the existing bridge and will no doubt provide a more resilient location than that of the existing bridge. The new location will also necessitate a small diversion of the existing PROW to gain access to the bridge. The bridge will provide a safer and more resilient crossing on the rough that is both local coastal path and will form no doubt an important link in the new England Coastal Path.

6.12 The application has been advertised in the local press and by site notice on the site. Neighbouring properties and the local county councillor were also notified. No representations have been received.

7.0 PLANNING ASSESSMENT
7.1 The key planning issues relevant to the proposed schemes are considered to be: planning policy, need, siting, design, construction activities, diversion of public right of way.

Planning Policy

7.2 The proposed development has been considered against the policies of the Copeland Local Plan 2013-2018 Core Strategy and Development Management Policies DPD, adopted December 2013; National Planning Policy Framework (2012) and Planning Policy Guidance.

7.3 Policy ENV1 (Flood Risk and Risk Management) of the Copeland Local Plan 2013-2018 Core Strategy and Development Management Policies DPD specifically requires developments in Pow Beck Valley are designed to address the existing levels of flood risk without increasing flooding elsewhere. The siting of the proposed bridge has been determined by recent storm damage and storm surges. A flood risk assessment has been undertaken as part of the proposal and which concludes the new bridge has been designed with the indicative floor constraints in mind and have taken into account flood risk data and it is considered the bridge would not have an impact on flooding in the area The proposal therefore meets the requirements of Policy ENV1.

7.4 Policy ENV6 (Access to the Open Countryside) of the Copeland Local Plan 2013-2018 Core Strategy and Development Management Policies DPD seeks to ensure that access to the countryside is available by identifying opportunities to provide or improve access on routes and gateways from settlements. The proposed new bridge would provide a link between the village of St Bees and the coastal path and therefore complies with Policy ENV6.

7.5 National Planning Policy Framework Section 7 requires a good design to be a key sustainable element of any development. The design of the bridge is consistent with others in Cumbria. Section 10 requires developments to meet the challenges of climate change, flooding and coastal change. The proposed bridge would provide access to the coastal path which is currently inaccessible at times during high tides and storm surges.

7.6 Planning Practice Guidance provides guidance on design, natural environment and waste. The proposed bridge is in accordance with the guidance.

Need for New Footbridge

7.7 There is an existing concrete bridge over Pow Beck. During Storm Desmond the bridge was subject to damage and erosion of the abutment structures and the approaches to the bridge. The bridge is currently not accessible to disabled users as the abutments which form the accesses have become damaged and temporary steep steps are the only means of accessing the bridge on the northern side.

7.8 The new bridge would be located 39m east of the existing bridge and would incorporate access ramps which would be wheel chair accessible and would be compliant to Disability Discrimination Act 1995.

Siting and Design

7.9 The proposed location of the bridge is considered to be the most appropriate
location as it would not be affected by high tides and storm surges which occur preventing access during these occasions. The soffit of the bridge would be 500mm above the ground level so the bridge would not be immersed in average high tides, there may be times during extreme weather conditions where the bridge might not be accessible.

7.10 The design of the bridge would be steel support beams with timber beams and rails. The parapet height of the hand rails would be 1.15m to comply with design guide for footbridges. The design of the bridge is typical of others in the County. The bridge would be accessed by shallow stone ramps with a gradient accessible for wheelchair users. The siting and design of the bridge is therefore considered acceptable.

Construction Activities

7.11 A temporary construction compound would be required on the car park. The compound would be used for the storing of material and construction vehicles during the construction period.

7.12 Materials for the construction of the bridge would be transported to site from the public car park at St Bees, approximately 1.2km north of the application site, transported along the beach at low tide and stored in the proposed temporary construction compound on the existing car park. The reason the material is required to be transported along the beach is because the car park close to the bridge is accessed via a low lying railway bridge approximate height 1.83m and down a narrow lane which in places is only accessible to one vehicle.

7.13 Due to the location of the works materials such as cement would be required to be mixed as close to the site as possible but set back from any potential impact of discharging/leaking into the watercourse.

7.14 During construction there would be some minor disturbance to users of the area with regards to noise and general construction activities. These impacts are considered to be short term impacts and would be acceptable.

7.15 The applicant has a permit from the Environment Agency to undertake work which may affect a watercourse.

Diversion of Public Right of Way

7.16 Reconstruction of the bridge can be carried out under Section 92 of the Highway Act 1980. The Highway Authority is empowered under that section of the Act to construct a new bridge within 200 yards of the old one if it carried a public highway. The diversion of the public right of way would be considered under Section 119 of the Highways Act 1980 which will be pursued at a later stage.

Other Considerations

7.17 Network Rail has raised concern with regards to the works being in close proximity to the operational railway line. Measures must be undertaken to ensure the works do not impact upon the safety, operation and integrity of the Network Rails land. The applicant is advised to provide a Risk Assessment and Method Statement for all works to be undertaken within 10m of the operational railway; details of all excavation and earthworks are required within 10m of the railway boundary; vibro-compaction/piling machinery details are required and the
applicant would need to agree Basic Asset Protection Agreement with Network Rail. It is proposed to include informatives to the developer with regards to these impacts.

7.18 St Bees Parish Council has requested public access onto the north side of the beach is maintained. The proposed diversion and realignment of the path would not connect onto the beach as it runs in a north easterly direction and crosses the railway line and connects onto Sea Mill Lane. However, the proposed realignment of the public right of way would not restrict public access from the north side of the bridge and access onto the beach, which forms part of the England Coast Path and which is being considered separately by Natural England.

7.19 The footbridge has been designed to be DDA compliant and provide access to disabled users.

**Human Rights**

7.20 Given the nature, scale, location and purpose of the proposed bridge no Human Rights would be affected.

**8.0 CONCLUSION**

8.1 The proposed footbridge would provide a suitable crossing point of Pow Beck. It would comply with the Disabled Discrimination Act and provide a safe passing point of the beck. The design of the bridge is in keeping with others in the County and is acceptable.

8.2 The proposed footbridge raises no issues with regards to landscape and visual impact, impact on the amenities of local residents or impact on the public right of way. Conditions are proposed to mitigate against any impact which may arise during the construction of the bridge. The proposed footbridge complies with local and national planning policy.

8.3 The proposed compound would be temporary for the construction period and would be acceptable.

8.4 It is considered that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably by mitigated. It is therefore recommended that this application be granted subject to conditions.

**Dominic Donnini**

*Corporate Director Economy and Highways*

**Contact:** Mrs Jayne Petersen MA RTPI, Kendal, Tel: 01539 713549; Email: jayne.petersen@cumbria.gov.uk

**Background Papers:** Planning Application File Reference No. 4/17/9006

**Electoral Division Identification:** Egremont North & St Bees - Mr Wormstrup
PROPOSED PLANNING CONDITIONS

Time Limit for Implementation of Permission

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

Approved Scheme

2. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following:
   a. The submitted Application Form – dated 8 March 2017
   c. Flood Risk Assessment – dated May 2016
   e. Plans numbered and named:
      i) Location plan – dated 26 May 2016
      ii) Site Plan – 423012/01 – dated May 2016
      iii) Steelwork Plan – BW240008/01 – dated Sept 2011
      iv) Proposed bridlebridge elevation – FP/423012/01 – dated March 2017
      v) Steelwork - BW240008/01 Rev 1 – dated Sept 2011
      vi) 3-9m Span Standard Bridge - AMS/DS – Nov 07
   f. The details or schemes approved in accordance with the conditions attached to this permission.

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

3. Notification of the date of commencement of the development shall be made in writing to the County Planning Authority within 7 days of such commencement.

Reason: To enable the County Planning Authority to monitor the development to ensure compliance with this permission.

4. All excavations deeper than 0.5m that will be left unattended overnight will be kept to a minimum. Where excavations must unavoidably be left open overnight they will be securely fenced with Herras fencing with an additional lower guard to prevent wildlife from entering the working area.

Reason: In order to prevent otters or wildlife becoming trapped in deep excavations.

5. Any fuel, lubricant or chemical storage vessel shall be placed or installed within an impermeable container with a sealed sump and capable of holding at least 110% of the vessels capacity. All fill, draw and overflow pipes shall be
properly housed within the bunded area to avoid spillage. The storage vessel, impermeable container and pipes shall be maintained for the duration of the development.

Reason: To minimise the risk of pollution to water courses or groundwater resource.

6. Operators shall check their vehicles on a daily basis before stating work to confirm the absence of leakages. A reporting system shall be devised and implemented to ensure that repairs are undertaken as soon as discovered and before starting work and accessing the route and construction site of the footbridge.

Reason: To minimise the risk of pollution to water courses or groundwater resource.

7. On completion of the development compound areas and access routes and any other disturbance caused as a result of the development shall be returned to their original condition within one month from the completion of the development.

Reason: To ensure the restoration of the construction compound and access routes associated with this development as restored appropriately.

Informative

The applicant be advised to liaise with Network Rail AssetProtectionLNWNorth @networkrail.co.uk on the following:

A Basic Asset Protection Agreement (BAPA) will be required between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs/presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent.

The developer should have regards to impact of the operational railway line:

1. A Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operation railway under Construction (Design and Management) Regulations.
2. Agreement of all excavation and earthworks within 10m of the railway boundary to determine if work would impact upon the support zone of the railway land and infrastructure. Including alterations to ground levels, de-watering works and ground stability.
3. Vibro-compaction machinery/piling machinery or piling and ground treatment works details are required including a method statement.
PROPOSAL: Section 73 Application to vary Conditions 1, 2 and 3 of Planning Permission 5/96/9005 for the purposes of extending the timescales to complete quarrying operations at Holme Park Quarry until 2043 and to vary the phasing and restoration schemes

LOCATION: Holme Park Quarry, Burton-in-Kendal, Carnforth, Cumbria, LA6 1NZ
1.0 RECOMMENDATION

1.1 That having first taken into consideration the environmental information as defined in the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 submitted in connection with the application and subject to:

i. the applicant (Aggregate Industries), the land owner (Camas), Natural England and Cumbria Wildlife Trust first entering into a Section 106 legal agreement with the County Council to ensure the long term management by Cumbria Wildlife Trust of the National Nature Reserve and Local Nature Reserve adjacent to and within the quarry complex, and financial contributions (comprising an endowment lump sum and annual contributions) from the applicant to secure the delivery of this;

ii. the applicant first entering into a Section 106 legal agreement with the County Council regarding vehicle routing to ensure that HGV's entering and leaving the Holme Park Quarry site do so from a northerly direction along the A6070 to avoid Burton-in-Kendal; to ensure compliance by such HGV drivers with a Hauliers’ Code of Practice, and to secure the implementation of a drainage scheme to improve drainage at Holme Park Quarry site entrance where the site access adjoins the A6070;

iii. the applicant first entering into a Section 59 legal agreement with the County Council to deliver an annual contribution towards highway maintenance/improvements for extraordinary damage caused by Holme Park Quarry related HGV traffic to the part of the public highway between the quarry entrance and the Auction Mart roundabout on the A6070;

planning permission be GRANTED subject to the conditions set out in Appendix 1 to this report.

2.0 THE PROPOSAL

2.1 Holme Park Quarry is an active, 71 hectare limestone quarry which produces a range of aggregate products and high quality concrete grade products.

2.2 On 11 August 2000 planning permission was granted for a lateral extension and deepening of the quarry, for the refurbishment of the processing plant/structures and for the implementation of landscaping and restoration schemes (planning ref 5/96/9005). Condition 1 of this permission requires all operations to cease and the site be restored by 31 December 2023. Currently, approximately 13.79 million tonnes of permitted reserves remain within the quarry. Assuming that production levels would continue at around 500,000 tonnes per year, the operator anticipates that approximately 10 million tonnes of reserve would remain by the end of the current permission. The purpose of this planning application is therefore to extend the life of the quarry for a further 20 years, until 2043, in order to enable completion of quarrying operations provided for by the current planning permission. The operator is also proposing revisions to the working and restoration phasing plans previously submitted and approved under Conditions 2 and 3 of the current permission.

2.3 The planning application is accompanied by an Environmental Statement (ES) which assesses impacts of the proposed time extension on landscape and visual receptors; ecology; noise; air quality; vibration; hydrogeology; traffic and access; rights of way and recreation, and the considers socio-economic implications and
cumulative impacts. The ES is accompanied by Non-Technical Summary and a Planning Supporting Statement.

3.0 DESCRIPTION AND LOCATION OF THE SITE

3.1 Holme Park Quarry is located approximately 15km to the south of Kendal, due east of Holme and due north of Burton-in-Kendal villages, on the eastern side of the M6 Motorway approximately 3.5km south of Junction 36. The quarry is directly accessed from the A6070.

3.2 There are several residential properties at Clawthorpe which are in close proximity to the south western boundary of the quarry. These include a small group of properties along Pipers Lane, one of which is Woodlands, the closest property to the site which is approximately 150m from the site extraction boundary. Other properties immediately south of the quarry include Farleton Rise and Rawley Copse situated approximately 185m and 200m from the site extraction boundary. There are also a couple of isolated dwellings at Holme Park Farm which is in reasonable proximity (around 400m to the site boundary) to the north west of the site.

3.3 There are three public rights of way in the immediate vicinity of the site. One (Byway No 533010) runs from Holme Park Farm west to east along the northern boundary of the quarry to join the Clawthorpe Road to the east of the site. One (Footpath No 533009 adjoining Footpath No 507019) runs from the A6070, south of the quarry site access, in a south easterly direction along the south western edge of the site and joins the unnamed road north of Clawthorpe. One (Footpath No 533008) runs from the A6070, north of the junction with the B6384, and runs in a south easterly direction before joining up with Pipers Lane in Clawthorpe, again to the south of the quarry.

3.4 The site falls within a landscape area defined as Sub type 3a Open Farmland and Pavements, around Farleton Knott, as defined in the Landscape Character Guidance and Toolkit (Cumbria County Council; March 2011). This type of landscape is found on Lower Carboniferous limestone with calcareous brown soils, and is characterised by steep scarp limestone slopes; limestone pavement or other rocky outcrops; grazed land with stone wall field boundaries; rough pasture as open common or high fell in higher areas; sporadic scrub and woodland on steep scarp slopes, and extensive open and uninterrupted views from high ground.

3.5 The site is located within the western foothills of the limestone crags that form the upland areas of Farleton Fell, Newbiggin Crags, Holme Park Fell, Dalton Crags and Hutton Roof Crags. The latter form the highest point of the range reaching some 274m AOD some 1.5km to the south east of the site. Land surrounding the site towards the north east varies from 51m AOD at the site entrance onto the A6070, and reaching a maximum height of around 145m AOD along the edge of Holme Park Fell. Farleton Knott rises to 274m AOD some 1.3km to the north of the site. The landform to the west falls away gradually towards the floodplain of the River Bela at an average height of 23m AOD. This plain consists of extensive areas of moss and fenland and many small drumlin type features reaching up to 40m AOD, with larger features (drumlins up to 120m AOD) to the west of the floodplain separating this area from the coastal plain and marshes associated with Morecambe Bay.

3.6 An unworked ‘island’ lies within the central part of the quarry which is designated
as part of the Clawthorpe Fell National Nature Reserve (NNR) and forms part of
the Farleton Knott Site of Special Scientific Interest (SSSI) and Morecambe Bay
Pavements Special Area of Conservation (SAC) which both lie immediately to the
north east and western boundaries of the site. The SAC also extends to the
south west. Holme Park Quarry Local Nature Reserve (LNR) is located
immediately south of the quarry void and Hutton Roof Crags SSSI lies to the
south west of the site, occupying the same area as the SAC.

4.0 SITE PLANNING HISTORY

4.1 The first recorded planning permission for mineral extraction at Holme Park
Quarry was 1949. Since then, several permissions have been granted. The site
currently operates under a planning permission, which applies to the whole of the
71 hectare site including the processing plant granted in 2000 (ref 5/96/9005). A
concrete batching plant, also operated by the quarry operator is located within
the 5/96/9005 planning permission boundary, but operates under a separate
permission (planning ref 5/90/3339).

4.2 The 5/96/9005 permission was granted subject to a Section 106 legal agreement
which revoked without compensation all other extant permissions (except
5/90/3339); secured a voluntary HGV routing agreement; secured the
establishment of National and Local Nature Reserves; and provides for an
extended aftercare period and safe pedestrian access to the National Nature
Reserve once restoration is complete. Aggregate Industries also entered into
agreements to deliver a number of highways improvements and to make annual
financial contributions towards the maintenance of the part of the A6070 used as
the HGV route for quarry traffic.

4.3 Under the terms of the Environment Act 1995, the current 5/96/9005 permission
was due for periodic review on 11 August 2015. The County Council agreed to
postpone the review until 11 August 2020, as the current conditions were
considered satisfactory and were made aware that this current application to
extend the time period of working was pending.

5.0 PLANNING POLICY

5.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that
planning applications must be determined in accordance with the development
plan unless material considerations indicate otherwise. Government policy is a
material consideration that must be given appropriate weight in the decision
making process.

5.2 The National Planning Policy Framework [NPPF] which was published on 27
March 2012 and the national online Planning Practice Guidance (PPG) suite,
which was launched in March 2014, are material considerations in the
determination of planning applications. The following sections and paragraphs of
the NPPF are considered to be relevant to the determination of this application:

- Paragraphs 6-10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Paragraphs 109 – Environment water and air quality
- Paragraphs 17,18, 19, 28 – Economic Sustainability
- Paragraph 118 – Environment – Nature Conservation
- Paragraph 120 – Local Amenity, Traffic, Transportation
- Paragraph 144, 145 – Sustainable Development and Supply of Minerals
Delivering Sustainable Development

- Section 1 - Building a strong, competitive economy
- Section 3 - Supporting a prosperous rural economy
- Section 4 - Promoting sustainable transport
- Section 7 - Requiring good design
- Section 8 - Promoting healthy communities
- Section 10 - Meeting the challenge of climate change, flooding and coastal change;
- Section 11 - Conserving and enhancing the natural environment.
- Section 12 - Conserving and enhancing the historic environment
- Section 13 - Facilitating the sustainable use of minerals

5.3 The following sections of the PPG are also of relevance:

- Assessing environmental impacts from minerals extraction
- Restoration and aftercare of minerals sites

5.4 The relevant development plan for this proposal comprises the Cumbria Minerals and Waste Development Framework’s (CMWDF) Core Strategy 2009-2020 (CS) and Generic Development Control Policies 2009-2020 (GDCP) both adopted in April 2009. The key policies within these relevant to the determination of this planning application are considered to be:

- Policy CS 1 Sustainable Location and Design
- Policy CS 2 Economic Benefit
- Policy CS 3 Community Benefits
- Policy CS 4 Environmental Assets
- Policy CS 5 Afteruse and Restoration
- Policy CS 6 Planning Obligations
- Policy CS 13 Supply of Minerals
- Policy CS 14 Minerals Safeguarding
- Policy DC 1 Traffic and Transport
- Policy DC 2 General Criteria
- Policy DC 3 Cumulative Environmental Impacts
- Policy DC 6 Criteria for Non-Energy Minerals Development
- Policy DC 8 Applications for New Conditions
- Policy DC 9 Minerals Safeguarding
- Policy DC 10 Biodiversity and Geodiversity
- Policy DC 11 Historic Environment
- Policy DC 12 Landscape
- Policy DC 13 Flood Risk
- Policy DC 14 The Water Environment
- Policy DC 15 Protection of Soil Resources
- Policy DC 16 Afteruse and Restoration
- Policy DC 17 Planning Obligations

5.5 The emerging Cumbria Minerals and Waste Local Plan 2015-2030, which will eventually replace the CMWDF, was submitted to the Secretary of State for examination by an independent Inspector on 9 September 2016. Hearing sessions for the examination were held between 29 November 2016 and 16 December 2016. Following this, a ‘Table of Main Modifications to the Plan’ was prepared and issued for a six week public consultation from 27 March until 5 May 2017. The Inspector is now in the process of finalising her Report to the County
Council on changes necessary to ensure that the Local Plan is sound and legally compliant. As the emerging plan progresses, greater weight can be attached to it in the decision making process.

5.6 There are no currently adopted minerals and waste Site Allocations in Cumbria, as the previously adopted Site Allocations Development Plan Document was quashed by the High Court and therefore is not a material consideration.

5.7 South Lakeland Core Strategy, adopted 20 October 2010, and South Lakeland Local Plan Land Allocation Development Plan Document Policies, adopted 17 December 2013, also form part of the development plan in this instance. The key policies of relevance within this document are as follows:

- Policy CS1.1 Sustainable Development Principles
- Policy CS8.1 Green infrastructure
- Policy CS8.2 Protection and enhancement of landscape and settlement character
- Policy CS8.4 Biodiversity and geodiversity
- Policy CS8.6 Historic environment
- Policy CS8.8 Development and flood risk
- Policy CS8.9 Minerals and waste
- Policy CS9.2 Developer contributions
- Policy CS10.2 Transport impact of new development

5.8 The saved policies of the South Lakeland Local Plan - adopted September 1997 and altered 2006 are also relevant and should be referred to until the Development Management Policies Development Plan Document (DPD), which is currently being progressed, has been adopted. These include the following:

- Policy C6 Sites of International Importance
- Policy C7 Sites of National Interest
- Policy C9 Landscape Features of Major Nature Conservation Importance
- Policy C8 Sites of Regional or Local Nature Conservation Importance
- Policy C10 Protected Species
- Policy C22 Flood Risk
- Policy C24 Watercourses and Coastal Margins
- Policy L10 Rights of Way
- Policy Tr10 Travel Plans
- Policy S1 Planning Obligations and Planning Briefs
- Policy S3 Landscaping

5.9 Other material considerations include the Cumbria and Lake District National Park Third Joint Annual Local Aggregates Assessment 2015. This document sets out sales and reserves information for each quarry within the County and assesses the balance between the demand for and supply of aggregates in order to plan for a steady and adequate supply of aggregates for the County.

6.0 CONSULTATIONS AND REPRESENTATIONS

6.1 South Lakeland District Council (SLDC) – Planning: No objection to the application, provided the revised planning conditions in respect of the hours of site operation and noise generation are fully considered so as to continue to safeguard the residential amenity of occupants of nearby dwellings during the periods of site operation, and that existing traffic management and routing schemes/agreements are retained for the periods of operation and restoration of
6.2 South Lakeland District Council – Environmental Health (SLDCEH): Believe the one private water supply in the area, at Rowley Copse, to be a rainwater supply only. If this is still the case, the proposed dust control measures will safeguard this water supply. If the supply has since changed to a spring or borehole, they request that the applicant demonstrates there would be no impact from the extended quarry operation.

6.3 SLDCEH accepts the Environmental Scheme and asks that certain existing planning conditions relating to hours of working, blasting, artificial lighting, access and traffic are retained; and that new conditions requiring the implementation of the Environmental Scheme as far as it relates to blasting, noise and dust are added.

6.4 Burton-in-Kendal Parish Council: No objection in principle to the proposed time extension, but considers the application in its current form to be unacceptable because it fails to recognise the growth and changing expectations of the community in which the quarry operates. The Parish Council states that Burton-in-Kendal has grown and is planned to grow much more in the next 20 years, so the impact of extended operations will affect a much larger population than envisaged in the original application.

6.5 The Parish Council requests that the planning committee visits the quarry, the local community and the nature reserves prior to making a decision.

6.6 The Parish Council has the following specific comments to make:

6.7 **HGV Traffic:** The most far reaching effects of the quarry for most residents is the number of HGV movements, and it is disappointing that reductions and further measures to mitigate the effects of HGV traffic are not considered in the application. The Parish Council considers that the voluntary agreement currently in place that restricts HGV movements through Burton-in-Kendal should be replaced with an absolute ban of all HGV traffic, including that associated with the on-site cement works (the subject of planning application ref 5/16/9011). The impacts of HGV traffic should be analysed in the context of the rapid growth of recreational cycling on the A6070, particularly at weekends, and the increased use of the road by pedestrians following for example the Limestone Link recreational trail, which requires walkers to walk on the A6070 for several hundred yards where there are no pavements – yet the applicant refers to the ‘non-existent’ pedestrians.

6.8 Given the reduced rates of operation at the quarry, serious consideration should be given to stopping Saturday working altogether. This would improve the recreational use of the A6070 and have little effect on quarry output.

6.9 If a time extension is approved then a condition should be that a footway alongside the A6070 for the Limestone Link should be provided and maintained by Aggregate Industries.

6.10 There are areas of the A6070 where standing water/flooding is a problem after heavy rain, particularly at the junction between the quarry access road and the A6070. The cause of the problem is unclear but it is getting worse. The Parish Council and residents expect that the County Council and Aggregate Industries will ensure that sufficient provision is made in any new planning agreement for
6.11 **Quarry Blasting Effects:** The effects of blasting are of great concern with residential properties lying so close to the quarry. The applicant has demonstrated that they can keep the ground vibration effects of blasting well below the currently permitted levels. This presents an opportunity to offset the adverse effects of blasting by placing a reduced limit on permitted ground vibration effects. Could the current maximum ppv of 6mms for 95% of blasts be reduced to 4mms and the never exceeded figure of 12mms reduced to 6mms? For blasts closer to or likely to affect local properties, the levels could be further reduced. The company should also look at increasing the stand-off distance from residential properties where future blasting is likely to most affect residents. It is recommended that no further quarrying should take place in the south eastern and south western internal corners of the quarry as it is understood that these areas are likely to cause the most problems. These areas should then be allocated for early restoration and possibly added to the Local Nature Reserve.

6.12 The limits on and effects of air-overpressure are mentioned in several places in the application; however, there is no definition of the maximum acceptable level or how the level is to be limited and the effects mitigated.

6.13 The Parish Council refers to points of detail in Technical Appendix D which appears to be inaccurate and not related to this quarry, which does not provide confidence that the company have given much attention to trying to mitigate the effects of blasting on the local community.

6.14 The Parish Council made several comments in response to the scoping consultation, many of which were reflected in the County Council’s Scoping Opinion but not reflected by the proposed application.

- Local Residents. The existing Liaison Committee should continue to provide a vehicle for formal liaison between the company, the County, District and Parish Councils and local residents. The requirement to regularly consult with the local community should be part of the application, particularly with regard to landscape and visual impact, noise, blasting and vibration, transport, ecology and artificial lighting.
- Restoration. An ongoing or rolling programme of restoration of the site should be given more serious consideration. The whole site would be restored under the current planning permission by 2023. If a time extension is to be considered it would be appropriate that a large part of the site would still be restored by this date.
- Local Nature Reserve. Whilst it is recognised that the County Council may not be able to fulfil its responsibility for oversight of the Local Nature Reserve, the application should make it clear that the LNR will continue to be supported by Aggregate Industries for the extended life of the quarry.
- Boundary Hedges and Walls. A programme for the maintenance of boundary hedges, fences and particularly dry stone walls should be included.

6.15 Holme Parish Council: No objection and is supportive of the application.

6.16 CCC Local Highway Authority: Have concerns about the lack of drainage at the access into the site. If this is not addressed, the problem would continue for the duration of the proposed time extension and would perpetuate current road safety issues. This would be unacceptable and they would be unable to support the application in its current form.
6.17 It is also noted that the visibility splay to the left of the access (south of the access) is obstructed by the neighbouring hedge. This must be corrected and maintained at a safe height to ensure that vehicles can access and exit the site in safety.

6.18 CCC Local Lead Flood Authority (LLFA): Consider that there is an issue with drainage on the public highway at the junction with the site which may be affected by drainage from the site. An investigation should be carried out to establish the cause of the problem and what measures should be implemented in order for it to be addressed. They also request that detailed plans are provided to show the location of drainage channels on the access road and to explain how these will be managed and maintained. The site entrance marks a low spot on the highway which will be an ongoing maintenance issue, and, if left, would perpetuate existing highways safety issues and access implications for the quarry. Further detailed information should be provided to address these matters.


6.20 Natural England: The County Council as competent authority should have regard to any potential impacts the proposed development could have on the designated Morecambe Bay Pavements SAC by carrying out a Habitat Regulations Assessment. Natural England considers that it is not possible to conclude that the proposal will not result in adverse effects on site integrity as a result of the delay in restoration, and therefore advises that a number of conditions would have to be met in order to avoid an adverse impact on site integrity.

6.21 Natural England does not agree with the conclusion in the ES that the extension of time would be beneficial for the designated sites during the extension period, as the current permission would secure restoration of the wider area 20 years earlier than the current application proposes. Natural England would therefore assess the impacts as minor negative for the duration of the time extension due to the delay in completing restoration of the quarry both for priority habitats and the statutory designated site.

6.22 Natural England concurs with the conclusion within the ES that the main significant effect is the long delay in restoration of the internationally important site for nature conservation. They believe that the time extension, without adequate mitigation/compensation over and above that already within the current permission, would have an adverse effect on site integrity and the designated features of interest. As a result, Natural England believes that it is necessary not only to retain the mitigation/compensation from the existing planning permission, but also to enhance this to off-set the delay of 20 years to the restoration.

6.23 Natural England welcomes the improved restoration plan and amended aftercare plans, particularly the aim of progressive restoration and early commitment to restoring the land bridge to suitable calcareous habitat, and the removal of the eastern conifer block, but believes that these only go some way to off-setting the impacts of the delay in restoration.

6.24 Natural England requests that an extension of the current NNR/LNR agreements is put in place states that this would simply extend the status quo for another 20 years and not provide any extra conservation gain to compensate for the 20 year delay in restoration. Natural England points out that currently, the designated sites are having to be managed in isolation in order to maintain their habitat and species interest until restoration of the quarry, which once restored would allow
for greater mobility of species across the site as a whole and within the wider landscape. To mitigate for the delay in restoration and to offset the need to extend this management requirement, Natural England advises that there should be provision for management costs and resources for the ongoing practical conservation tasks that would be required.

6.25 Natural England has no objection to the proposal provided the following conditions are met:

- There is no land-take or impact on the existing SAC/SSSI/NNR.
- The restoration and aftercare proposals set out in the planning application and EIA are conditioned within the planning consent.
- A new NNR lease is sought with Natural England or an approved conservation body under s35(1)c of the Wildlife and Countryside Act 1981 for the period of the time extension. The Local Nature Reserve (LNR) agreement would also need to be extended.
- The delay in restoration is adequately mitigated/compensated. Natural England would welcome specific provision for NNR and LNR funding within the new lease to offset the delay is restoration.

6.26 The National Trust: The Trust owns and manages 120 ha of land at Holme Park Fell, immediately to the north east boundary of the site. The land is ‘open access’ land and includes a large tract of limestone pavement, and is remarkable for its botanical and geological interest as well as its sense of wilderness and remoteness. The land is designated as within the Farleton Knott SSSI and as part of the Morecambe Bay SAC, and is protected by a Limestone Pavement Order.

6.27 The Trust considers that the application raises a number of issues and concerns, and asks that these are taken into account, as follows:

- Duration of extension. The continuation of quarrying activities well beyond the approved time limit represents further disruption to the local area over a much longer period. If the Council is minded to approve the application, every effort should be made to secure gains to the local community and the environment in the short to medium term whilst quarrying operations are ongoing.
- Progressive restoration. The Trust has concerns regarding the adequacy of the restoration proposals and the possible implications delay will have upon wildlife at the site and on adjacent designated sites. Local Planning policy is unequivocal in its requirement that best practicable measures are employed to secure full advantage of a site’s potential and that restoration should be progressive. The Scoping Opinion issues by the County Council (May 2015) advises that it would be necessary to consider on-going mitigation to off-set the impacts of the delay. Reference is made to restoration being continual. Works must be firmly programmed to correspond with the phasing of extraction to secure some relatively early benefits within the next 10-15 years. The implementation of a Section 106 agreement to include a trigger mechanism to enable mineral extraction to proceed in accordance with the proposed phasing, upon completion of works from earlier phases, is entirely appropriate.
- ‘Bridge’ from NNR Island. The Trust is pleased to see that the proposed ‘bridge’ linking the Clawthorpe Fell NNR island with Holme Park Fell has been retained as part of the current proposals, and that it will now be actively
managed to create a calcareous grassland community that will facilitate the movement of species from the island to similar habitats outside the boundary of the site. However, there is a lack of clarity over when the bridge will be completed. Continued isolation from adjacent habitats presents a significant threat to the genetic health and diversity of the species currently present on the island. It is essential that the restoration proposals provide certainty that the bridge will be completed as soon as practicable. A deadline of 2025 would be reasonable and realistic. Assurance is sought that the bridge and the island beyond will remain accessible for management and monitoring purposes both throughout the life of the quarry and beyond. It is critical that access to the NNR is maintained in order to undertake various operational tasks necessary to safeguard the quality of habitats.

- Management bodies. The NNR is currently held under lease by Natural England who manages the site as part of the lease agreement. It is worrying to note that arrangements for the management of the NNR beyond the existing consented period have not yet been agreed. This is central to the integrity of the restoration proposals and should be resolved prior to any decision on the current application. Similarly, the favourable ecological status of Holme Park LNR must be secured as part of the current proposal. The proposal indicates that management could be transferred to an appropriate conservation organisation prior to completion of the current LNR agreement, and continue for the remainder of the proposed extension. The County Council should secure appropriate assurances that important features will be protected and enhanced.

- Aftercare. The Trust is generally satisfied that the proposed aftercare scheme set out in the Ecological Impacts assessment will improve biodiversity at the site through appropriate management. One aspect not covered, however, is proposed boundary treatments. The Trust requests that appropriate boundary treatments, including adequate signage, continues to be provided as part of the aftercare scheme in order to protect those using the rights of way which crosses National Trust land beyond the north east boundary of the site. The Trust considers that it will also be vital to ensure the integrity of the boundary treatments so that grazing animals on the adjacent National Trust land do not have access to the quarry site, including after its final restoration. The stock in question is essential to maintaining the Favourable Status condition of the Holme Park Fell SSSI.

6.28 Cumbria Geo-conservation Group: No objection to the proposed time extension, but is unhappy with the restoration schemes, ongoing and final. They acknowledge that full consideration is given to biodiversity, but consider it to be disappointing that geodiversity is largely overlooked in the planning application.

6.29 CCC Ecology: The conclusions of the ES as far as ecology is concerned are comprehensive and robust. CCC Ecology comments that the details for the future management of the nature reserves have not been presented up front prior to determination of the application, but considers that given the parties involved in drawing up the legal agreement to secure this, the necessary measures would be secured and compensation for the extended 20 year period would ultimately prove satisfactory.

6.30 CCC Archaeology: No objection.

6.31 CCC Countryside Access: Two public rights of way exist immediately adjacent to the development site (BW 533010 and FP 533009/507019). Care must be taken
to ensure that these remain open and unaffected by the proposed development at all times.

6.32 In accordance with the County Council’s *Statement of Community Involvement* (January 2006), the applicant carried out pre-submission publicity and consultation with the local community in May 2016. When submitted, the application itself was advertised in the local press and by site notice on the site; neighbouring properties were notified by individual letter, and the local member representing that division was notified.

6.33 15 letters of representation have been received. Of these, four state that they object to the proposed extension of time, and the remainder raise concerns. The issues raised are summarised as follows:

- **Duration of time extension.** This is considered disproportionate and excessive. The 10 year land bank has been exceeded and there is no justification for a time extension of the duration proposed. A time extension to 2033 or 2030 would be more appropriate. Residents were expecting completion by 2023 and then the opportunity to enjoy the nature reserve, considered the ‘trade off’ to the extension permitted in 2000.

- The current permission states that it will expire on 31 December 2023. There is no reason to vary the terms of this highly contested permission which took 5 years to negotiate. It has been noticeable that the applicant has been quarrying at a lesser rate in recent years. It is questioned whether this is a deliberate strategy with a hidden agenda which necessitates a time extension of incredible length to fit the applicant’s commercial interests.

- It is unacceptable that the date of the quarry keeps being allowed to be set back. Enough time has been given for this site, and it is time for the applicant to commit to the promise made to fully develop it into a nature reserve for the good of the area, environment, natural habitat and the community. It is considered that the residents of Clawthorpe have suffered enough from the noise, blast vibration and dust associated with the operation of the quarry.

- The assumption that conditions that applied at the time of the last permission 16 years ago remain the same and will suffice for the next 27 years. The applicant seems to have given little/no attention to improving mitigation of the adverse effects on the community or environment.

- **Blasting and Air Over-pressure.** This is a matter of greatest concern to local residents and many report incidences of disturbance as a result. Despite the duration of the proposed time extension, there is no proposal to reduce or ameliorate current levels of blasting impact. The quarry management have successfully reduced levels of ground vibration. It is questioned whether the limits specified in the conditions can be amended to reflect this by requiring ground vibration to not exceed a ppv of 4mms (instead of 6) for 95% of all blasts and for no individual blast to exceed 6mms, instead of 12, and could blasting in the future exclude Saturday mornings as this does not appear to be needed. It is also questioned whether quarrying activities could not start until after 7.30am and be finished by 8.30pm. If any time extension were to be granted, updated restrictions on blasting levels allowed as well as reduced frequency and hours of blasting to reflect more sophisticated blasting techniques and current practice at the quarry should be imposed.

- **Blasting activity undertaken in the south west corner of the quarry adjacent to the LNR is problematic; the most sensitive and concerning issue for residents, and past working in this area has caused most of the complaints**
by residents. The confining effects of blasting in a corner cause difficulty and always leads to complaints. The most effective strategy would be to undertake no further quarrying in this corner and create a buffer zone between quarry operations and the adjacent residents. This would substantially reduce the effects of blasting on local residents and enable early restoration of this part of the quarry, which could and should commence immediately. The loss of aggregate from this part of the quarry, and therefore the amount that would be sterilised as a result, would be minor considering the scale of the application. A representative from the Clawthorpe Hall Business Centre has also made the same request in order to minimise disturbance to users of the centre. The centre houses 25 units, each with an average of 4 members of staff, a children’s nursery, with over 150 children attending throughout a month, and a conference centre which can hold 30 delegates per day.

- General concern expressed should quarry blasting move closer to residents, particularly in the south eastern corner of the quarry, as present levels of vibration are currently felt at nearby properties, and would be extremely concerned if the quarry was permitted to increase the strength of blasts.

- The A6070 and Transport. Traffic on the A6070 has increased since 2000 and in the summer the number of cyclists and walkers using the road has significantly increased (part of the Lands End to John O’Groats route). There is a pedestrian route for about 400 m on the A6070 as part of the Limestone Link footpath from Arnside to Kirkby Lonsdale, and there is little room for pedestrians when HGVs are passing. There is a need for an off highway footway to be created alongside the A6070 to facilitate the Limestone Link footpath, and established and maintained by Aggregate Industries. If extraction is to be extended over a longer period, there is no longer a need for the peak vehicle movements to be permitted. A reduction to current levels would be of benefit to all road users.

- It is important that the applicant continues to prevent HGVs going through Burton-in-Kendal, and a blanket ban of HGVs through the village should be implemented as a condition of any approval; that any contributions set aside by the applicant for the maintenance of the A6070 should be safeguarded and used for this purpose, and that a record is made of this expenditure and presented in a transparent manner to the Liaison Committee at least on an annual basis.

- Local Nature Reserve. The continued financial support of the LNR by the applicant is supported. Tribute is paid to the current management of the quarry and the applicant to the support of the LNR. An efficient and effective annual cycle of maintenance of the LNR has been established with support for continuing the management of the LNR by a group of local residents with guidance by Cumbria Wildlife Trust and continued funding by the applicant. The applicant should be asked to make a commitment to maintaining and funding the LNR, including the maintenance of the bund throughout the life of the quarry and the restoration support period. In the longer term, as the area of the LNR expands, it would make sense for management of the LNR to pass to Cumbria Wildlife Trust who has the experience to manage what will be a large, varied and potentially dangerous area.

- Hours of working. Any time extension should lead to a reduction in intensity of quarrying activity and could therefore be accompanied by a reduction in hours of working. Currently hours of working Monday to Saturday start at 6am. It would improve local amenity if this was changed to a 7am start.

- Light pollution. The quarry is a considerable source of light even after operational hours. This issue appears not to have been addressed in the
Application.
- Application boundary. It is questioned why all the maps and drawings accompanying the application show the application boundary cutting through the LNR.
- Quarry boundaries. Some of the quarry boundaries are in need of attention, particularly the dry stone wall on Clawthorpe Lane.
- Current management at the quarry. Relationships between the quarry management and local residents have improved over the years at this site and this is appreciated. There is a need to tackle some of the issues raised through this application now rather than relying on good will which may not be present in the future.
- Consider the operation by the applicant to be unsafe and a danger to life following an incident where a car was showered with stone from a quarry lorry on the A6070.

7.0 PLANNING ASSESSMENT

7.1 Planning permission is sought for a time extension of the existing quarrying operations until 2043 and to vary the phasing and restoration schemes. The key planning issues raised by this proposal are the need for the development in the context of the supply of minerals; the implications of the continued long term operation of the site in terms of nature conservation and ecology, landscape and visual amenity, water resources and flood risk, traffic, transportation and rights of way, and the impacts on local amenity in terms of blasting and vibration, noise and dust; and the benefits of the proposal and consideration of alternative options to that proposed by this application.

Need for the Mineral

7.2 Core Strategy Policy 13 of the adopted Minerals and Waste Development Framework (MWDF) states that provision will be made which takes account of Cumbria patterns of quarries and areas of supply, and to identify areas sufficient to maintain a landbank of permitted reserves for supply areas for at least 10 years for general aggregate crushed rock. Development Control Policy DC6 of the adopted MWDF states that proposals for non-energy minerals outside of Preferred Areas (which this site is) will only be permitted if the landbank of reserves with planning permission is below the required level, and there is a need for the proposal to meet the levels of supply identified in the Core Strategy, and the proposals do not conflict with other policies of the Plan.

7.3 The emerging Minerals and Waste Local Plan (Draft Minerals and Waste Local Plan Regulation 22, Submission Version; published August 2016), which is a material consideration in the determination of this application, reiterates the above policy approach (Policies SP7 - Minerals Provision and Safeguarding) and Policy DC12 – Criteria for Non-Energy Minerals Development). Policy DC12 specifically mentions that proposals, whether for a physical or time extension to an existing site, will be considered on their individual merits, and criteria to be considered include the need for the mineral; economic considerations; and positive and negative environmental impacts.

7.4 According to the Cumbria and the Lake District Third Joint Annual Local Aggregates Assessment, published October 2015, which incorporates the latest 2014 figures, permitted reserves of crushed rock in Cumbria and the Lake District National Park stood at 137.06 million tonnes, which with a 10 year average annual sales of 3.25 million tonnes, represents a landbank of 42.17 years. The
Aggregates Assessment (Paragraph 5.8) suggests that the County is self-sufficient with respect to crushed rock, producing nearly five times more than is needed for its own use.

7.5 The County’s landbank includes the permitted crushed rock reserves at Holme Park Quarry. The current permitted mineral reserve at Holme Park Quarry stands at approximately 13.79 million tonnes of crushed rock for general aggregate use. Assuming that production levels continue as existing (around 500,000 tonnes per year), the applicant anticipates that 10 million tonnes of reserve would remain at the end of 2023, the expiry of the current planning permission. This amounts to approximately 3 years of the County’s total crushed rock supply (based on the 10 year average sales set out in the Local Aggregates Assessment), and 15% of the total annual sales in Cumbria and the Lake District, based on the average of 500,000 tonnes of crushed rock extracted from Holme Park Quarry each year, which reflects the importance of this quarry to the County. This planning application proposes an extension of time to facilitate the extraction of the 10 million tonnes of mineral, over an additional 20 years, which would otherwise remain within the quarry and be effectively sterilised.

7.6 There are currently 17 operational crushed rock quarries in Cumbria, providing limestone, igneous and sandstone rock. The nearest quarry to Holme Park, and the only other crushed rock quarry in South Lakeland, which supplies crushed limestone for general aggregate purposes, is Sandside Quarry. Planning permission expires at this site in 2020, which could have implications on Holme Park and the supply of crushed rock in South Lakeland district in general. Consideration of local supply areas is therefore important. If planning permission were not to be extended at Holme Park, supply in the South Lakeland area would effectively cease by 2023, when the current planning permission at the site ceases.

7.7 In terms of other supply areas outside Cumbria, the Yorkshire Dales National Park (YDNP) lies immediately to the east of South Lakeland district. The recent extension of the National Park by a further 25% could further restrict the supply of reserves within this extended boundary, given that the NPPF states that when determining planning applications, planning authorities should provide for the maintenance of landbanks from outside National Parks as far as practicable. Permitted reserves of crushed rock in the YDNP have declined by 50 million tonnes over the past 10 years, and the extent to which these will be replenished as current reserves are worked out is unknown at present. There are currently 5 operational crushed rock quarries in the YDNP which, in the absence of new permissions being granted, will cease during the plan period with the exception of a quarry at Horton. This reinforces the importance of maximising the recovery of reserves at sites outside National Parks, such as Holme Park.

7.8 A Joint Local Aggregate Assessment for Lancashire, Blackburn with Darwen and Blackpool Local Authorities was prepared in April 2015. This document states that in 2013 there were 59 million tonnes of permitted limestone reserves, held in 6 quarries, which represents a landbank of 28 years (based on the 10 year average sales). It considered that if the number of quarries reduces during the monitoring period, the rate at which the remaining quarries would be worked out would be affected and so the availability of supplies to the market. Imports and exports of crushed rock within the three Lancashire Authorities were also considered. Imports in 2009 were approximately 24% of the crushed rock production and sales figure. It stands to reason then that if particular quarries in
neighbouring authorities, such as Holme Park, were to cease production there could be impacts upon the market in adjoining plan areas and consequent affects upon the rate of consumption of permitted reserves at particular quarries.

7.9 It should be borne in mind that the 10 year landbank specified by the NPPF (and reiterated in the MWDF) is guidance or indicative only and the NPPF does not set out a maximum or ceiling level for aggregate landbanks. The proposed extension of time at Holme Park Quarry accords with the general thrust of extant and emerging Local Plan policy and national guidance in that it would contribute substantially to the maintenance of the crushed rock landbank of at least 10 years. The above also demonstrates the significance of the reserve at the quarry not only to Cumbria’s landbank of reserves but also potentially, in the future, to those of the neighbouring and adjacent local authorities. If an extension of time were not permitted at this site, a significant quantity of high quality Carboniferous limestone would effectively be sterilised, which could ultimately result in the need to identify and develop a ‘greenfield’ site for a new limestone quarry in South Lakeland vicinity.

7.10 Aside from mineral need and landbank issues, the proposed extension of time would help secure and retain the jobs of those already directly and indirectly employed as part of the quarry operations and which contribute to the local economy through wages, business rates, use of local suppliers; and at the national level, to the economy through aggregates levy and other taxation processes. The site employs 15 full time employees directly, of which 14 live locally, and supports many more jobs in terms of management and administrative support roles within Aggregate Industries as well as related occupations and service providers to ensure that the site operates safely. An assessment of the economic benefits of the site indicates that each year approximately £1 million is spent on salaries and maintenance, a proportion of which will be spent locally. The site is an important contributor to the local economy, particularly in this rural location, and the continued operation of the site, through the proposed extension of time, has the potential to input approximately £20 million into the economy over its lifetime. It is evident therefore that this proposed extension of time has the potential to provide considerable economic benefit and therefore complies with Core Strategy Policy 2 (Economic Benefit) of the MWDF.

7.11 Furthermore, whilst aggregate sales have been depressed since the onset of the recession in 2008, reflecting the decline in construction markets, there has been a sustained recovery since mid-2013, driven by the housing sector. According to the Mineral Product Association’s Press Release (July 2015), expectations for construction output and mineral product demand remains positive for 2015 and beyond. In August 2015, the Government published their blueprint for a Northern Powerhouse designed to bridge the north-south economic gap by improving the transport network across the north of England. It is considered that Holme Park Quarry is of regional importance in this context. It produces a high quality product used in the manufacture of ready mixed concrete, concrete products and asphalt throughout the North West Region.

7.12 This growth is reflected in Cumbria and the Cumbria and the Lake District Third Joint Annual Local Aggregates Assessment (October 2015) states that ‘…demand for development and growth in Cumbria is coming from several sources, all of which are likely to require aggregates originating in the County.’ (Paragraph 3.8). As well as the road, rail, transport and flood defence and waste infrastructure projects which have recently been completed or are still ongoing,
there are significant energy projects proposed for Cumbria as well as the need for each of the six District Councils within the County to deliver up to 30,000 new homes through their Local Plans. The *Local Aggregates Assessment* states that Carlisle, Eden and South Lakeland districts have a combined requirement to deliver approximately 19,000 new homes by 2025 (Paragraph 3.17). There is significant development planned for the County and beyond. It is therefore important to ensure a sufficient and predictable supply of the correct type, quantity and quality of minerals, to provide for such projects.

### 7.13 Nature Conservation and Ecology

7.13 Whilst the above demonstrates that the proposals are compliant with policy in terms of providing obvious economic benefits and maintaining and securing the long term future of the landbank, the consequent environmental impacts of the proposed significant extension of time extension, both operationally and in terms of delaying the final restoration of the site, must be considered in order to determine the acceptability of this proposal. These are considered below.

7.14 Government guidance through the NPPF (*Section 11*) seeks to protect, maintain, conserve and enhance nature conservation and biodiversity interests. These broad intentions are reflected in Core Strategy Policy 4 (Environmental Assets) and Core Strategy Policy 5 (Afteruse and Restoration), and Policies DC3 (Cumulative Environmental Impacts), DC10 (Biodiversity and Geodiversity) and DC16 (Restoration and Afteruse) of the Cumbria Minerals and Waste Development Framework (MWDF) (April 2009), and Core Strategy Policy CS8.4 (Biodiversity and Geodiversity) of the of the South Lakeland Development Framework (October 2010), and have been rolled forward to the relevant policies of the Cumbria Minerals and Waste Local Plan Submission Version (Summer 2016). In general terms these policies seek to protect species and habitats, and, through restoration, provide replacement and enhanced habitats.

7.15 There are several statutory designations present on or adjacent to the quarry: Morecambe Bay Pavements SAC within and adjacent to the site; Farleton Knott SSSI within and adjacent to the site; Hutton Roof Craggs SSSI, 280m to the south east of the site; Clawthorpe Fell National Nature Reserve (NNR) within and adjacent to the site, and Holme Park Quarry Local Nature Reserve (LNR) within the site adjacent to the southern edge of the working boundary. A number of non-statutory designations are located within 2km of the site, including Sexton Hagg Wood, Clawthorpe Woods, Lancaster Canal, Dalton Plantation and Cut Wood County Wildlife Sites (CWS). The closest of these and both lying to the south of the site area Sexton Hagg Wood and Clawthorpe Woods. The Holme Park Quarry Geological Site includes rock exposures within the whole of the working quarry and there are three Sites of Invertebrate Significance at Clawthorpe Fell, Farleton Knott and Hutton Roof Craggs within and adjacent to the site.

7.16 The most important habitats are limestone pavements and limestone grassland habitats with scattered scrub and semi-natural woodland which are of international and national importance. The broad-leaved and semi-natural woodland at the north end of the site and just outside the site boundary on the western margin and in the LNR is assessed to be of County importance.

7.17 Various surveys over the years have revealed the presence on the site of amphibians (Great Created and Palmate Newts, the Common Toad); invertebrates (butterflies and moths), reptiles, birds, including several of these...
various categories on the UK BAP Priority Species listed in Section 41 of the NERC Act 2000, and some registered as Cumbria BAP Species. Almost all of the bird species present are protected under the Wildlife and Countryside Act 1981, however, the peregrine falcon is afforded greater protection under Schedule 1 of the Act. Surveys for other protected species, including bats, badgers, dormice, otters also revealed have also been undertaken. Roosting bats are thought to be present in rock crevices and cracks on the site and foraging bats around the quarry margins; there is evidence of badger presence in the general area; dormouse presence adjacent to the site, and otter presence in the more distant vicinity.

7.18 An Ecological Impact Assessment accompanies this application, the purpose of which is to provide an objective assessment of the ecological effects of the proposed time extension. This Assessment broadly concludes that the only residual impact of the proposed operations relates to the delayed restoration of the quarry for a further 20 years. For the most part, such impacts are predicted to be ‘not significant’. However, there are some exceptions. The delayed restoration would have a minor negative impact upon the Morecambe Bay Pavement SSSI/SPA/SAC designations and the limestone pavement, limestone grassland, broad leaved semi woodland and neutral grassland habitats in particular, but this would not be significant in the long-term. Similar impacts are predicted for invertebrates during this time, and ‘not significant positive benefits’ are predicted for Great Crested and Palmate Newts and Common Toads. By contrast, ‘significant benefits’ are anticipated for limestone pavement, grassland and broad leaf habitats in and ‘significant positive’ impacts would result for most habitats and protected species in the longer term as a result of the revised restoration and aftercare schemes.

7.19 The most significant ecological consideration is the potential impact of the 20 year time extension on the integrity and nature conservation value of the Morecambe Bay Pavements SAC. In order to determine these impacts, the County Council has undertaken a Habitat Regulations Assessment (HRA) as required by the Conservation of Habitats and Species Regulations 2010. The Conservation Objectives of the site are that its Qualifying Features must be maintained or restored to achieve Favourable Conservation Status. Its qualifying features include Carboniferous limestone and limestone pavements, which are a priority feature, calcareous grasslands and fens, semi-natural dry grassland, European dry heaths, specific forests of slopes, screes and ravines, oak woodlands, and the Narrow-mouthed whorl snail.

7.20 The HRA concluded overall that for all habitats and species, the works would cause no significant loss of habitat, reduction in species diversity, community ecosystem function or displacement of species. It further found that the potential impacts upon habitat loss or physical damage or disturbance; changes to soil, water or air chemistry; pollution and in-combination effects with any other projects in the vicinity would not be significant. The HRA concluded that the 20 year time extension will not, either alone or in combination with any other plans or projects, have an adverse effect upon the interest features of the SAC or the tests required for meeting the favourable conditions of the designated site, and that the integrity of the SAC would therefore be maintained. This is provided that any planning permission secures an ongoing commitment to and funding of the necessary management within the Farleton Knott part of the SAC throughout the 20 year extension period.
The conclusions of the Ecological Assessment have been reached and the provisos of the HRA would be met through the applicant’s proposals which are aimed at mitigating the impacts of the time extension upon the ecological interests of the site and not only maintaining and conserving but also attempting to enhance these in the longer term. The company’s commitment to achieving this comprises the following proposed measures:

- Production of a revised and improved restoration scheme, to create calcareous and neutral grassland, bare rock, scattered trees and scrub and several ponds and wetlands within the quarry floor, and the creation of the ‘bridge’ between the ‘island’ and the limestone habitats of the fell to the north east of the quarry. The aim of the plan is to increase the area of habitats for invertebrates of the existing limestone grassland habitats and create habitat connectivity to enable all species, including amphibians and Great Crested Newts in particular, to move around, into and out of the site. The plan is improved as it would achieve more extensive habitat creation; no importation of organic matter, and improved methods for re-seeding and the establishment and future management and monitoring of calcareous grassland.

- Progressive restoration as soon as practicably possible, to include the establishment of the ‘bridge’ to be completed by 2023 (the end of extant quarry permission); the removal of the incongruous block of conifer to the north of the eastern end of the NNR island once all quarry working to the east of the island has been completed, and the early establishment of replacement Great Crested Newt habitat in preparation for the translocation of Great Crested Newts from the Elephant Hole part of the quarry. The revised working and restoration phasing drawings submitted with this application clearly set out when and how the site would be progressively restored.

- Production of a revised and improved aftercare scheme, to take account of the need to carefully monitor the establishment of calcareous grassland, and the proposal to extend the aftercare period for a further 5 years beyond the 5 year statutory period required after the cessation of quarrying. This would be a requirement of the proposed Section 106 legal agreement which would accompany any permission issued. This scheme is similar to the extant scheme except that it would maximise the opportunity for butterfly and moth development; increase the potential for successful calcareous grassland establishment, and compensate for the increased working period and delay to restoration by removing all conifer screening within the first three years of aftercare to reduce detrimental shading caused by the trees.

- Extension of the terms of the NNR and LNR Stages 1 (the current LNR designation immediately south of the quarry void) and 2 (the rest of the quarry floor when quarrying ceases) agreements. It is proposed that this would be achieved by transferring the responsibility for the management of the NNR and the LNR Stages 1 and 2 from Natural England and Cumbria County Council, respectively, those currently responsible, to Cumbria Wildlife Trust (CWT). The transfer of the lease arrangements (currently between Camas as the land owner and Natural England as the lease holder) for the management of the NNR from Natural England to CWT, and the transfer of responsibility from Cumbria County Council to the CWT for the management of the LNR would be secured through the Section 106 agreement. CWT’s responsibilities for the NNR and the LNR Stage 1 would commence with immediate effect from completion of the legal agreement (and therefore the issuing of any planning permission) and CWT would assume responsibility, in
perpetuity, for the management of the LNR Stage 2 upon completion of quarry restoration. In order to secure the implementation of the above terms, Aggregate Industries would make significant financial contributions to CWT in the form of an endowment lump sum for the future maintenance of the NNR and LNR Stages 1 and 2 upon completion of quarry restoration, and two separate annual payments for the maintenance of the NNR and LNR, respectively, each year, for the extended operational life of the quarry. Again, these requirements would be set out in the legal agreement, and it is understood that all parties are in agreement to these terms as far as they can be at this stage of the process.

7.22 It is considered that the above measures together with the applicant's commitment to first enter into legal agreements along with the recommended planning conditions to secure the restoration, aftercare and afteruse of the site address, as far as they can, all of the concerns presented by Natural England, the National Trust, Burton-in-Kendal Parish Council and representees. In particular, it is considered that the transfer of responsibilities to a body with the expertise to manage the respective designations, together with the financial contributions for this purpose by the applicant, would adequately compensate for the 20 year delay to site restoration.

7.23 It is therefore considered that with the applicant's and other bodies' willingness to enter into legal agreements and the recommended planning conditions relating to site restoration, aftercare and afteruse, the proposals would comply with the policies of the development plan. Such measures would ensure that the site's extensive and complex nature conservation and biodiversity interests would be protected, enhanced and conserved and that the potentially negative impacts of the delays to restoration would be adequately mitigated and compensated.

**Landscape and Visual Amenity**

7.24 Policy DC12 (Landscape) of the Cumbria MWDF states that proposals should be compatible with the distinctive characteristics and features of Cumbria’s landscapes; should avoid significant and adverse effects on the natural and historic landscape, and that development should be directed to less sensitive locations wherever possible, and ensure that sensitive siting and high quality design prevent significant adverse impacts on the principle local characteristics and landscapes. Policy DC18 (Landscape and Visual Impact) of the Draft Cumbria Minerals and Waste Local Plan reiterates this approach and also states that proposals should avoid significant adverse visual impacts. Policy CS8.2 (Protection and enhancement of landscape and settlement character) of the South Lakeland Local Development Framework Core Strategy states that development proposal should, amongst other things, demonstrate that their location, scale, design and materials will protect, conserve and where possible enhance the special qualities and distinctiveness of the area.

7.25 A number of measures are either already in place or proposed to mitigate against any adverse landscape and visual effects that may result from the proposed extended time period. These include existing advance woodland planting and screening mounds around the site perimeter which reduces impacts in the landscape and helps screen the site from adjacent lower level public rights of way; progressive restoration; the retention of the central island which breaks up views of the quarry; siting of the processing and concrete plants at a lower elevation to maximise screening by surrounding higher ground along with
adjacent woodland planting; the length of the access road to help separate the main quarrying activities from the adjacent road network. Operationally, as well as the proposal to progressively restore the site over the proposed next 26 years, mitigation measures include the fact that the majority of the site has been worked to its full lateral extent with may faces and benches completed with natural regeneration evident; the weathering of faces to a relatively dark and recessive colour; and a restoration scheme that enables natural regeneration together with early sourcing of native seed species to ensure compatibility with the surrounding landscape.

7.26 In terms of landscape impacts, the LVIA concluded that of the seven landscape character areas with the potential to receive effects from the proposals, only two could receive higher levels of effects: Coastal Limestone LT3 (Open Farmland and Pavements LT3a) and Drumlins LT7 (Low Drumlins LT7a). This was due to proximity and the nature of local topographic features, including elevated limestone outcrops, mature woodland blocks adjacent to the site and existing screening by bunding around the site perimeter. The assessment concluded that the greatest degree of direct effects would be on the Open Farmland and Pavements Landscape Type, largely resulting from the presence of the deep quarry void surrounded by high upper faces, as well as the presence of the access road, plant site and ancillary activities, the impacts of which would be moderate adverse during the extended operational life of the quarry and slightly beneficial following final restoration. Similar levels of landscape effects to the north, east and south, up to 1km from the site would be experienced by this landscape type, due to the relatively open aspect from the scarp slopes to the north of Holme Park Fell and Farleton Knott, as well as the byway and Holme Park Farm to the north of the site. In these areas the significance of effects has been assessed as potentially reaching slight to moderate adverse during the extended operational life and slight beneficial effects following final restoration.

7.27 Further afield, primarily to the west and potentially up to 5km from the site, landscape effects on the Coastal Plain; Wooded Hills and Pavements; Low Drumlins; Drumlins Fields; Low Coastal Drumlins; Warton-Borwick, and Docker-Kellet-Lancaster Landscape Types would be greatest, associated with working the eastern margins of the central island creating new unweathered faces, all be them partially masked by existing woodland blocks and the surrounding landform. This aspect of the development would not form a skyline feature, so the effects would be slight adverse during the extended operational life and neutral to slight beneficial following final restoration.

7.28 In terms of cumulative landscape effects associated with the existing and proposed timescales for completion, the nearest large scale wind energy schemes, located at Harlock Hill, Kirkby Moor and Far Old Park north of Barrow-in-Furness, some 28km to the west, are too far away to cause either landscape or visual cumulative impacts. As regards other quarries, the only active quarry within the study area is Sandside Quarry to the south west of Milnthorpe, 4.5km from the site. This is also well hidden with a mature woodland setting and so does not give rise to cumulative impacts. In terms of former quarry sites, the back faces of the restored Middlebarrow Quarry near Arnside some 6.8km from the site are relatively visible in the landscape as they are not particularly weathered. By contrast, however, the upper faces of Holme Park Quarry are generally well weathered and so in themselves do not cause significant landscape impacts. The assessment therefore concludes that the in-combination effects of both quarry faces does not change the landscape character to the
extent that they create a different landscape character type, and as such there are no cumulative landscape or visual impacts associated with the proposed development.

7.29 The assessment of visual impacts analysed the effects according to zones. It found that of those receptors within 2km of the site, those with significant levels of effects are generally associated with Holme Park Farm and the public right of way network to the north and east of the site and the areas of Open Access fells to the north, east and south of the site, all referred to as Zone 1. The impacts on Holme Park Farm itself are assessed as slight to notable adverse significance which would continue at this level throughout the extended life of the site. The adjacent rights of way have been assessed as receiving potentially moderate adverse impacts during this period.

7.30 Receptor Zone 2 was identified as being to the west up to 1km from the site boundary and generally associated with the village of Holme, plus outlying farmsteads, dwellings and the local transport network including rights of way. The assessment concluded that during the extended operational life of the quarry, none of these receptors would experience significant effects and dwellings on the outskirts of Holme would receive up to slight adverse impacts. This is due to the presence of features such as mature woodland along the western and southwestern boundaries, the retention of a rising outer landform and the main processing operations located below original ground levels. These are permanent features which would not alter through the extended life of the quarry and beyond.

7.31 Receptor Zone 3 was identified as generally being to the west between 1 and 5km of the site and generally associated with isolated farms, dwellings, the local transport network including rights of way located within the floodplain of the Bela Valley, or to the west of the A6 corridor associated with Yealand Conyers and Redmayne, Hale and Beetham. The same features that would mitigate visual impacts for Zone 2 receptors would benefit Zone 3 receptors. However, minor lateral extensions within the central island and long the northern boundary of the current void, would become visible in their unweathered state above the surrounding woodland blocks. Despite this the assessment concludes that no receptors in Zone 3 would experience significant levels of effect, with dwellings within Bela floodplain potentially receiving up to slight adverse impacts during the extended operational life of the quarry.

7.32 It is concluded therefore that the proposed development would give rise to only very minor adverse levels of landscape and visual effects within the wider landscape during the proposed additional 20 year operational life. Where higher levels of effect would potentially occur within close proximity to the site, the features present around the site periphery, in combination with the overall depth of workings, generally mitigate against the degree of landscape and visual effects. The proposed extended operations would continue not to cause significant detriment to the landscape character and quality and visual amenity of the immediate locality, and would not give rise to any cumulative impacts when combined with other developments. It is therefore concluded that the proposal complies with the policies of the development plan in terms of potential landscape and visual effects.

Drainage, Water Resources and Flood Risk

7.33 The NPPF (Section 10) states that flooding should be avoided by directing
development away from areas at highest risk of flooding and that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere as a result of that development. Policy DC13 (Flood Risk) of the Cumbria MWDF echoes this by seeking to ensure that minerals developments are located, wherever possible, in areas with the lowest probability of flooding (Flood Zone 1). Exceptions will only be permitted if it is demonstrated that the wider sustainability benefits of the development outweigh the flood risk, and the flood risk assessment demonstrates the development will be safe, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. Policy DC14 (The Water Environment) states that planning permission will only be granted for developments that result in no unacceptable quantitative or qualitative adverse effects on the water environment, including surface waters and groundwater resources. These policies are reiterated in the Draft Minerals and Waste Local Plan.

7.34 Policy CS8.8 (Development and Flood Risk) of the South Lakeland Core Strategy states that most new development should be located in Flood Risk Zone 1, and that all new development will only be permitted if it can be demonstrated that it would not have a significant impact on the capacity of an area to store floodwater; measures required to manage flood risk can be implemented; surface water is managed in a sustainable way; provision is made for the long term management and maintenance of any mitigation measures, and the benefits of the proposal outweigh the flood risk.

7.35 A Hydrological Assessment and Flood Risk Assessment (FRA) forms part of the Environmental Statement which accompanies this planning application. The catchment area for the quarry comprises Holme Beck, located 1.5km west of the site and runs south westerly into the River Bela, a left bank tributary of the River Kent. Farleton/Lupton Beck, located 3km north of the beck at the foot of Farleton Fell runs westerly into Peasey Beck, a tributary of the River Bela. The Farleton Fell-Hutton Roof Crags forms the divide between the River Bela catchment and the River Kent catchment which flows southwards into Morecambe Bay at Carnforth. There are several discharge permits (Aggregate Industries has three at the quarry) and licensed surface and ground water abstractions within a 2.5km radius of the site, and there are two registered water supplies and four private water supplies in the vicinity.

7.36 Current practice is that surface water that accumulates in the low lying poorly drained area to the quarry is pumped into the main central lagoon where it is pumped to maintain a water level which does not interfere with quarry activities. Some is pumped directly from the lagoon and used for dust suppression or to the plant area to supply the processing plant and wheel washer. The run-off from the processing plant and weighbridge area is directed into a series of three settlement lagoons adjacent to the weighbridge and then discharged into a purposely constructed soakaway. The excess water from the main central lagoon is pumped into a series of two settlement lagoons from which the decanted water discharges into the ‘Elephant Hole’ in the quarry. There is also a by-pass route to discharge clean water from the quarry workings directly into the second lagoon. The site water management would remain unchanged during the proposed extended operational period. There would be no change to the location of the settlement lagoons, no change to the discharge rate of water from the site to the soakaways, and no significant change to surface water flows.

7.37 The site is located entirely within the Environment Agency designated Flood
Zone 1 (annual flood probability of less than 0.1%). The proposed time extension would not increase the current flood risk vulnerability classification, and it is therefore considered that the continued quarrying activities would be appropriate in this location, in accordance with Policy DC13 (Flood Risk) of the Cumbria MWDF and Policy CS8.8 (Development and Flood Risk) of the South Lakeland Local Development Framework Core Strategy.

7.38 In terms of potential impacts on groundwater, Carboniferous limestone in the area is considered a major aquifer, therefore springs emerging from this or licensed or private water supply boreholes targeting this aquifer have been assessed as having high sensitivity. The magnitude of impact from quarrying activity without mitigation is considered to be high. Without mitigation there is a moderate likelihood of springs, licensed surface water abstractions and private water supplies within the periphery of the site to be impacted during quarrying operations. The potential risks to groundwater are therefore rated as medium to low.

7.39 In terms of potential surface water impacts, Lupton Beck is rated Good Status and therefore highly sensitive and Holme Beck is designated of Medium Status with low sensitivity. The magnitude of impact of quarrying without mitigation for the surface water system is considered to be high. Without mitigation, there is moderate likelihood of springs, licensed surface water abstractions and private water supplies within the periphery of the site to be impacted during quarrying operations. Due to its up-gradient location, it is considered unlikely that Lupton Beck would be impacted without mitigation. The risks to surface water are ranked by the hydrological assessment as medium to low.

7.40 With regard to private water supplies specifically, the applicant is not proposing to change the existing water collection systems used for the suppression of dust, consequently, it is not envisaged that there would be any adverse impacts upon the private water supply at Rowley Copse. This should satisfactorily address the concerns raised by SLDC Environmental Health.

7.41 The Environmental Statement concludes that there would be no significant impact on water resources as a result of the proposed time extension. The operator would continue to undertake best practice and conform with environmental standards, including the bunding of fuel and oil stores; the maintenance of vehicles on designated areas with spillage containment systems; the directing of all run-off to settlement lagoons before being discharged to groundwater via soakaways in accordance with Environmental Permits; maintenance of soils mounds to minimise run-off; and the separation of foul drainage from surface water drainage systems.

7.42 The main issue as regards hydrological impacts of the continued operation of the site relates to surface water and the periodic flooding that takes place at the site entrance where the quarry access road adjoins the A6070. Burton-in-Kendal Parish Council has raised this as an issue, as has the Lead Local Flood Authority (LLFA) who considers the situation to be unacceptable and is unable to support the proposed time extension if the matter is not addressed by this application. Furthermore, this issue has been problematic for several years and is consistently raised by residents as a key concern at the annual Liaison Meeting held by the quarry operator. In order to address the issue the applicant has submitted details of a drainage scheme to be implemented at the site entrance which is designed to reduce the risk of flooding to the A6070. This is generally
acceptable to the LLFA. To ensure its implementation, it would form part of the proposed Section 106 legal agreement whereby any permission for the time extension would only be issued if the details of, and the applicants’ commitment to deliver, the scheme have been agreed by the County Council.

7.43 The Hydrological Impact Assessment and Flood Risk Assessment have identified and evaluated the impacts associated with the proposed time extension. They conclude the residual risk of impact to be ‘none’ to very low, provided mitigation measures are retained, monitored, assessed and adjusted if required. To date, the assessment points out that there have been no impacts upon the water environment, in terms of potential impacts on the quality and quantity of ground and surface waters, as a result of the actual quarrying operations, including any potential impacts of de-watering. The only outstanding issue is the surface water flooding at the site entrance, for which a drainage scheme is not proposed and is acceptable in principle. Its implementation would be secured via the proposed legal agreement. It is therefore considered that the proposals are compliant with the NPPF and the policies of the development plan.

Traffic and Transportation

7.44 The NPPF (Section 4: Promoting sustainable transport) seeks to encourage development which accords with the sustainable transport objectives of minimising the need to travel, particularly road journeys, and promoting the efficient delivery of goods and supplies. Key relevant sustainable policy objectives include the encouragement of solutions which support reductions in greenhouse gas emissions and reduce congestion; ensuring that developments which generate significant movements are located where the need to travel will be minimised and the use of sustainable transport modes maximised; and exploiting opportunities for the use of sustainable transport modes for the movement of goods or people. The NPPF also states that all developments that generate significant amounts of movements should be supported by a Transport Statement or Transport Assessment and a Travel Plan.

7.45 Core Strategy Policy 1 (Sustainable Location and Design) of the Cumbria MWDF seeks to ensure that minerals developments minimise, as far as practicable, the ‘minerals road miles’ involved in supplying minerals, unless other environmental/sustainability and geological considerations override this aim. Policy DC 1 (Traffic and Transport) states that proposals for minerals development should be located where they relate well to the strategic road network and/or have the potential for rail/sea transport and sustainable travel to work, and are located to minimise operational ‘minerals road miles’. Minerals development not located as such may be permitted if they do not have unacceptable impacts on highway safety and fabric, the convenience of other road users and on community amenity; an appropriate standard of access and traffic routing can be provided, and appropriate mitigation can be provided for unavoidable impacts. These policies have largely been rolled forward into the Draft Minerals and Waste Local Plan. The South Lakeland Local Development Framework Core Strategy contains similar policies and policy objectives (Policy CS10.2 - Transport Impact of New Development).

7.46 This planning application is accompanied by a Transport Assessment and a Framework Travel Plan. The Assessment makes clear that the proposed extension in time would lead to no change in current site operations. The current traffic movements associated with the quarry operation are, however, less than
the levels permitted by the planning conditions attached to the current planning permission. The assessment has therefore considered the effects based on the continuation of existing typical traffic movements projected to 2024, which would be the start of any extended time period, and also the traffic impacts of operating at the maximum levels permitted by the existing planning conditions. In addition, the Assessment has considered the impacts of traffic associated with the operation of the quarry, in-combination with the typical traffic associated with the Ready Mix Concrete (RMC) plant which has operated since 1991 at the quarry site. The Assessment has also assumed a proportionate increase in traffic on the local road network during the assessment period to further inform the findings.

7.47 In terms of overall traffic levels, the projected increase in two way traffic as a result of the extension in time based on current levels would, during the 12 hour core time period, be almost 4% on the A6070 rising to just below 10% on the site access/A6070 junction heading north. Based on ‘worst case’ scenario levels permitted by planning condition, this would increase to 8% and nearly 20%, respectively. All other roads would show negligible increases largely well below 2%, and overall the assessment concludes the impacts would be negligible.

7.48 In terms of the impacts of HGV traffic, the increase in two-way traffic as a consequence of the time extension would be negligible for most of the local road network (A65 north and south, A590 and A6070 south), but of potentially major adverse significance on the A6070, at its roundabout junction with the A65 where HGV traffic would increase by 91%, whilst immediately north of the site access on the A6070 the increase would be 230%. The assessment states that whilst this appears to be high, it would be due to the fact that HGV flows on the A6070 to the north of the site are currently relatively low reflecting the rural nature of the locale. Operating at the maximum potential limits established by planning conditions, the anticipated increase resulting from HGV movements on the A590 would be significant (36% increase). The A6070, between the A65 roundabout and the site access, the increase in HGV traffic is anticipated to be 190%, whilst to the north of the site access the increase would be around 480%, again reflecting the prevailing lower levels of traffic on this route, particularly in the vicinity of the site access. These impacts could be considered to be of minor adverse significance on the A590 and of potentially major adverse significance on the A6070.

7.49 Given the anticipated figures above, further assessment of potential effects on these specific sections of the road network during the ‘worst case’ scenario were carried out as part of the Transport Assessment. The potential impacts on the A590 (west of the A65 roundabout) were considered and it was concluded that the impacts on pedestrian delay, pedestrian amenity, and severance would be negligible due to there being no nearby frontage properties or footways and therefore low pedestrian movements. The potential impacts on driver delay and road safety were also assessed as negligible. There would be an increase of total development traffic of only 3% on this section of the A590, and a review of recent road safety data demonstrated a good safety record and no evidence that increased HGV levels would not unduly raise the statistical increased risk of accidents occurring as a result of a general increase in traffic.

7.50 The potential effect on the A6070, south of the A65 roundabout and north of the site access, were also further assessed under the ‘worst case’ scenario. Again, the assessment concludes that the impacts upon pedestrian delay, amenity and
severance would be negligible due largely to the lack of pedestrian infrastructure during this section and the lack of frontage properties and the consequent lack of pedestrian movement. It is, however, acknowledged that the Limestone Link footpath may, over the years, lead to some increase in pedestrian usage of the A6070. Impacts on driver delay and road safety are also assessed as negligible for reasons similar to those explained above and due to the fact that the total development would lead to a maximum increase of traffic on the A6070 to the south of the roundabout junction with the A65 by only 8% and by up to 20% immediately north of the site access, not surprisingly, the most impacted section.

7.51 Overall, the effects of the increase in traffic potentially associated with the proposed time extension are not considered to be significant. As explained above, this assessment has also taken into account the cumulative impacts through the application of a growth factor to take into account projected increase in traffic on the local road network during the time extension period.

7.52 On the basis of the above findings, the assessment concludes that the development would not give rise to any significant effects and accordingly, the impacts would be negligible and there should therefore be no requirement to implement measures to mitigate the effects of traffic associated with the proposed development. Despite these considerations, the applicant has proposed a range of measures designed to minimise the impacts of traffic associated with the continued long-term operation of the quarry. These include the following:

- Commitment to developing a quarry Travel Plan to promote sustainable travel opportunities for staff to encourage minimal use of the private car to access the quarry;
- The continuation of formal measures to minimise the impact of HGV traffic associated with the operation of the quarry on the local road network, to include the voluntary HGV routing agreement which requires all HGVs accessing the site to do so from a northerly direction down the A6070 to avoid Burton-in-Kendal, and adherence to the a Haulier Code of Practice which all HGV drivers must adhere to; and
- The provision by the applicant of annual financial contributions towards the maintenance of the A6070 for the extraordinary damage that would be caused by the continued use of the section of this road by quarry related HGV traffic from the site access to the Auction Mart roundabout on the A6070.

7.53 The above measures are fully supported by the Highways Authority and go some way towards addressing the concerns raised by Burton-in-Kendal Parish Council and individual local residents. They would be secured through a combination of planning conditions and legal agreements. Any planning permission would not be issued until legal agreements to secure the measures identified in the latter two points listed above had been signed, in order to ensure the delivery and implementation of these measures.

7.54 In conclusion, the traffic implications of the proposed time extension have been fully assessed. It is considered that with the recommended planning conditions and the measures identified above secured by legal agreement, the planning application for the time extension would be acceptable and comply with the policies of the development plan as far as the impacts of traffic are concerned.
Rights of Way

7.55 Three rights of way are in the vicinity of the quarry. One lies along the northern boundary of the quarry and two lie to the south west.

7.56 Policy DC2 of the Cumbria MWDF states that minerals proposal must demonstrate that public rights of way are not adversely affected, or if this is not possible, either temporary or permanent alternative provision is made. None of the public rights of way in the vicinity of the site would be directly affected by the quarry and there would be no need for any diversions. The LVIA concluded that whilst users of these paths and the Open Access Land between Holme Park Fell and Farleton Knott would experience significant levels of effects, these would not be major, substantial or adverse. The proposals are therefore compliant with development plan policy as regards potential impacts on public rights of way.

7.57 Given the necessary use of a section of the A6070 by those following the Limestone Link and the apparent general increased usage of the A6070 by walkers, Burton-in-Kendal Parish Council and residents have asked for the provision of a footway alongside instead of on the A6070. They have requested that this be provided and maintained by the applicant. Efforts were made by the applicant to engage with the landowner to attempt to discuss this matter, however, these proved unsuccessful.

Impacts on Local Amenity – Blasting Vibration, Noise and Dust

7.58 The NPPF (Section 13: Facilitating the Sustainable Use of Minerals), whilst recognising that minerals are essential to supporting sustainable economic growth and our quality of life, also recognises the potential adverse impact quarry operations can have on local communities. It states that when determining planning applications, Local Planning Authorities should ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source, and that appropriate noise limits are established for extraction in proximity to noise sensitive properties. Policy DC 2 of the Cumbria MWLP states that, where appropriate, minerals proposals must demonstrate that noise levels, blast vibration and air over-pressure levels would be within acceptable limits, and that there will be no significant degradation of air quality from dust and emissions. Policy DC2 (General Criteria) of the Draft Cumbria Minerals and Waste Local Plan reiterates the general thrust of this policy and there are specific policies to control the impacts of noise (Policy DC3), quarry blasting (Policy DC4) and dust (Policy DC5). The noise limits specified in the Draft Policy DC3 and the requirements specified in Draft Policy DC 5 reflect the standards and requirements specified in the National Planning Practice Guidance (updated March 2014).

Blasting Vibration

7.59 There are a number of residential properties in close proximity to the site, especially those at Clawthorpe, as described in paragraph 3.2 of this report. As the lateral extent of the quarry has been worked out and the extended operations at the site would involve working deeper only, the future operations would not extend any closer to the present nearest residential properties. The Environmental Statement accompanying the application therefore considers that the impacts of ground vibration and air overpressure could be suitably controlled within the current limits specified by the existing planning permission.
7.60 Several residents have raised concerns over the impacts of blasting, and this appears to be the matter of greatest concern to them. Residents have asked that updated planning conditions are attached to any permission which establish lower permissible maximum blast limits, and that the applicant surrenders the reserves in the south west part of the site closest to Clawthorpe, given their past experiences of this part of the site being worked.

7.61 The current planning condition specify the maximum permitted ground vibration levels which must not be exceeded in 95% of all blasts (peak particle velocity (ppv) of 6mm/second) and an absolute limit (peak particle velocity of 12 mm/second) which must never be exceeded. Regular monitoring to date demonstrates that these limits are rarely exceeded. These current limits reflect the recognised industry standards (British Standards Institution) which have been demonstrated to be appropriate in terms of safeguarding residential amenity and well below any risk to the structural integrity of nearby properties. To be consistent with this it is proposed to retain the ppv limit of 6mm/second. Recognising the concerns raised by residents, however, it is proposed to reduce the absolute limit to a maximum ppv of 9mm per second instead of 12mm. Whilst these limits are uppermost limits to be avoided, setting a lower absolute limit would provide the operator with further incentive to constantly refine the blast design to keep ground vibration and therefore the impacts of blasting to a minimum. This lower limit has also been applied more recently elsewhere in the north of England and so reflects contemporary practices.

7.62 A planning condition is proposed to require the submission and implementation of a detailed blasting scheme to include a requirement to constantly monitor and review blasting episodes to reflect current good practice to better inform blast design and minimise the impacts of blasting is also recommended. Following SLDC’s Environmental Protection Department’s advice, it is also proposed to retain the existing conditions to control blasting including the condition limiting the hours during which blasting would be permitted.

7.63 The site operator was asked to consider and respond to the request by residents to surrender the reserves closest to Clawthorpe. The applicant is of the view that this request would lead to the sterilisation of an estimated 1.8 million tonnes of currently permitted reserves. The company further reiterates that the proposed time extension is necessary to avoid the sterilisation of limestone in order to ensure a steady and adequate supply in the South Lakeland area. Essentially, the premature closure of Holme Park Quarry would bring forward the need for a replacement quarry which could well be on a greenfield site elsewhere in South Lakeland. The section on the Need for the Mineral in this report considers this matter in more detail and explains why this position is considered to be justified. It is further considered that the sterilisation of the reserves in this part of the quarry would have an adverse impact on the restoration of this part of the site and achieving the objectives of the revised restoration scheme, and the development of the LNR. Finally, it should be noted that the top bench of this part of the quarry has already been worked. Future working would take place on the lower benches and so further away from residents. Whilst the concerns of the residents are acknowledged, it is considered that, on balance, there is little justification on amenity grounds for sterilising the limestone reserves at the site.

7.64 It is considered that the additional and more stringent controls and specifications required by planning conditions should address any outstanding concerns relating to the impacts of blasting. It is considered that with the mitigating effects
of these, the proposed extension for the continued operation of the quarry would be acceptable and compliant with the policies of the development plan as far as it relates to ensuring that the impacts of blasting would be minimised.

**Noise**

7.65 There are a number of planning conditions attached to the extant planning permission that control noise at the site. These conditions are consistent with the guidance levels specified in the Planning Practice Guidance and development plan policy and the routine monitoring current carried out at the site demonstrates that noise generated by the quarry operations are in accordance with these conditions.

7.66 Future operations would not extend any closer to the current nearest residential properties and it is therefore considered that the impacts of noise could be suitably controlled by adhering to the limits specified in the existing planning conditions. In order to update these controls and ensure that the quarry would continue to operate in accordance with updated and best practices, further conditions are recommended to specify the use of broadband ‘white noise’ type reversing alarms only on any equipment, plant or machinery, the least intrusive of alarm systems, and to require that noise is monitored, suppressed and exceedances and complaints dealt with in accordance with the Environmental Scheme submitted with this planning application. This document was reviewed and amended to acknowledge recent changes in operational practice, site development, relevant NPPF policy and the recognised good practice set out in National Planning Practice Guidance. It is therefore considered that subject to the recommended planning conditions, the proposed extension of time would comply with the policies of the development plan regarding potential noise impacts.

**Dust and Air Quality**

7.67 The site has been operating in compliance with an existing dust suppression scheme approved by condition back in 2001. Monitoring to date found that the impacts of dust were being adequately mitigated at present and in accordance with this scheme. Recognising the need to update the approved scheme, the Environmental Scheme was reviewed and amended to acknowledge the changes in operational practice, site development, recognised good practice and updated planning policy, and submitted to accompany this planning application. It is recommended that the current planning condition is updated to require dust to be suppressed and monitored and complaints dealt with in accordance with the submitted Scheme in order to minimise any adverse impacts upon air quality.

7.68 Provided dust would be suppressed and monitored in accordance with the requirements of this planning condition, it is considered that any impacts would continue to be mitigated to acceptable levels throughout the proposed extended life of the quarry. It is therefore considered that with the recommended planning conditions, the proposed extension of time would comply with the policies of the development plan.

7.69 Finally, it is proposed to retain the current hours of operation which would continue to control predominantly noise arising from current site operations, specific limitations on the timings for blasting, and the transportation of minerals from the site. Such hours have generated little complaint from adjacent residents and neighbours over the years and also appear not to be compromising the
operation of the site. Furthermore, SLDC’s Environmental Protection department has suggested no changes or alterations.

7.70 In conclusion, it is considered that with the retention of certain conditions controlling hours of operation, blasting vibration, noise and dust, and the addition of further such conditions to ensure contemporary and best practice, the amenity of nearby residents would continue to be protected throughout the proposed extended life of the quarry. It is therefore considered that the proposals would comply within the policies of the development plan.

Benefits of the Proposal

7.71 It is considered important to consider the impacts of the proposed time extension against the benefits, should planning permission be granted. These can be summarised as follows:

7.72 **Need for the Mineral and Socio-economic benefits:** The proposed extension of time would prevent the sterilisation of a significant mineral resource and enable the continuation of supply in the South Lakeland area. The alternative in terms of refusal of permission for an extension of time at the Holme Park Quarry site could ultimately result in the need to identify and develop a ‘greenfield’ site for a new quarry in the South Lakeland area.

7.73 The time extension would have direct and indirect socio-economic benefits at a local as well as national level. Although few new jobs would be directly or indirectly generated by any permission, the continued long term operation of the site would assist in maintaining levels in the area across a range of industries, many of which depend directly upon quarrying, and this quarry in particular, for business. Planning permission would also induce benefits to the local and national economy through a multiplier effect. The overall contribution of the site to the local economy is important and an extension of time would help maintain suppliers of a nationally important primary material and associated jobs.

7.74 **Long Term Management of the NNR and LNRs:** In addition to the proposed improved restoration and aftercare schemes put forward by this application, and the continued commitment to extending the aftercare arrangements at the site, any permission would secure certainty for the long term management and maintenance of the National Nature Reserve (NNR) and Local Nature Reserve (LNR) Stages 1 and 2. Under current arrangements, the Section 106 legal agreement requires that the management and maintenance responsibilities for LNR Stage 1 to transfer to Cumbria County Council, until at least September 2021, but not beyond 31 December 2023, the expiry of the current planning permission. The legal agreement then requires the County Council (now without the in-house ecological expertise) to declare (and manage) the LNR Stage 2 as a Nature Reserve. Should planning permission for the proposed time extension be granted, responsibility for the long term management of both the NNR and LNR Stages 1 and 2 would transfer to the County Wildlife Trust (CWT) who has such expertise and the applicant would make substantial financial contributions in order to secure this. This would be significantly beneficial to the nature conservation and ecological interests of the area.

7.75 **Drainage improvements:** There are significant drainage issues at the junction between the site access road and the A6070. If planning permission were granted for the proposed time extension, the applicant would finance and implement a drainage scheme to resolve the flooding matter. This would be of
considerable benefit to immediate local residents and the wider users of this main ‘A’ Road.

7.76 **Maintenance of the A6070:** It is proposed that if planning permission for the time extension were granted, the applicant would re-commence, with more or less immediate effect, financial contributions towards the maintenance of the A6070 for the ‘extraordinary damage’ caused by the continued and extended use by quarry related HGVs of a section of this road. Contributions would cease upon expiry of any extended planning permission.

7.77 Under the terms of the current permission, then applicant was required to make financial contributions for this purpose for a fixed term only until October 2015, whereupon this obligation ceased. Contributions are therefore no longer being made, yet the current planning permission does not cease until 31 December 2023. There would therefore be obvious benefits to the maintenance of the A6070 with immediate effect and the longer term impacts of use of the A6070 by quarry traffic as a result of any extension of time would be mitigated by further contributions during this extended period.

7.78 **Travel Plan:** Aggregate Industries has volunteered the provision of and adherence to a Travel Plan to encourage minimal use of the private car by quarry staff in travelling to and from the quarry. There is currently no Travel Plan in place at the site, so this would be beneficial to achieving sustainable objectives in the continued operation of the site, should planning permission be granted.

7.79 The above benefits would be delivered largely through legal agreements, but also through planning conditions. To reiterate, any permission for the proposed time extension would not be issued until legal agreements to secure the delivery of these measures had been signed and sealed by all the requisite parties.

**Human Rights**

7.80 The Human Rights Act 1998 requires the County Council to take into consideration the rights of the public under the European Convention on Human Rights. Article 8 of the Convention provides that everyone has the right to respect for his private life and home save for interference which is in accordance with the law and necessary in a democratic society in the interests of, amongst other things, public safety, the economic wellbeing of the country or the protection of the rights and freedoms of others. Article 1 of Protocol 1 provides that an individual’s peaceful enjoyment of his property shall not be interfered with save as necessary in the public interest and subject to conditions provided for by law. For any interference with these rights to be justified the interference needs to be proportionate to the aims that are sought to be realised. The County Council has a duty to consider the policies of the development plan and to protect the amenities of residents as set out in those policies.

7.81 The proposed extension of time would mean that, if permitted, operations at the quarry would continue to have some impact on the visual, residential and environmental amenity for a longer period than anticipated. However, it is considered that satisfactory controls, through the imposition of planning conditions and the requirements of the legal agreements, would continue to protect the amenities of the most affected residents. The impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1) would be limited and proportionate to the wider social and economic interests of the community and
could be satisfactorily controlled by planning conditions and legal agreements.

8.0 CONCLUSION

8.1 The proposed time extension would prevent the sterilisation of an already permitted mineral resource at this site and secure the continued long term supply of limestone in the South Lakeland area. Whilst it is acknowledged that any permission would result in a significantly longer period of operation, with consequent impacts upon adjacent land users and occupiers, considerable benefits could be delivered through its continued operation.

8.2 In summary, it is considered that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, and legal agreements in place, any potential harm would reasonably be mitigated. Furthermore, any potential harm to interests of acknowledged importance would be limited and outweighed by the benefits of the development. It is therefore recommended that subject to the applicant first entering into the necessary legal agreements set out in the recommendation, planning permission be granted subject to the conditions as set out in Appendix 1 to this report.

Dominic Donnini
Director of Environment & Highways Services

Contact: Mrs Rachel Brophy MA BA(Hons) MRTPI, Kendal, Tel: 01539 713413; Email: rachel.brophy@cumbria.gov.uk

Background Papers: Planning Application File Reference No. 5/16/9010

Electoral Division Identification: Lower Kentdale ED - Mr RK Bingham
Proposed Planning Conditions

Time limit

1. This permission shall be for a limited period only expiring on 31 December 2043, by which date the operations hereby permitted shall have ceased, all buildings, plant and machinery, including foundations, hardstandings and the access road shall have been removed from the site, and the site shall have been restored in accordance with the approved scheme.

Reason: To secure the proper restoration of the site and access road following the approved period for this temporary development, in accordance with Policy DC16 of the Cumbria Minerals and Waste Development Framework (MWDF) Generic Development Control Policies.

Approved Operations Programme

2. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following documents, which comprises the approved scheme:

a) The submitted Application Form – dated 28 June 2016;
b) The letter from Heaton Planning Planning Consultants – dated 28 June 2016;
c) The Supporting Statement by Heaton Planning Planning Consultants – dated June 2016;
d) The Plans numbered and named:

- Drawing No. 466/RD4C – Working/Restoration Plan; dated 21 June 1999 (as far as it identifies the noise sensitive properties);
- Drawing No. 466/RD7C – Proposals for Screening Plant Area; dated 21 June 1999 (as far as it identifies the area where Permitted Development Rights apply);
- Drawing No 466/SK37 - Working/Restoration Plan; dated 6 April 2000 (as far as it relates to dimensions of access track and safety margins)
- Drawing No. 466/SK39– Sections; date 9 April 2000
- Figure 4.1 – Location Plan; Drawing No. M15.106.D.001
- Figure 6.1 – Existing Situation; Drawing No. M15.106.D.002
- Figure 6.2 – Phase 1; Drawing No. M15.106.D.004
- Figure 6.3 – Phase 2; Drawing No. M15.106.D.005
- Figure 6.4 – Phase 3; Drawing No. M15.106.D.006
- Figure 6.5 – Phase 4; Drawing No. M15.106.D.007
- Figure 6.6 – Phase 5; Drawing No. M15.106.D.008
- Figure 6.7 – Block Phasing Plan; Drawing No. M15.106.D.003
- Figure 6.8 – Revised Restoration Scheme; Drawing No M15.106.D.009b

e) All details, schemes or programmes approved in accordance with this
permission, and
f) This Decision Notice.

The existence and content of the approved documents shall be made known to all operatives responsible for the operation, restoration and aftercare of the site.

**Reason:** To ensure that the site is worked and restored in accordance with the approved scheme, in accordance with Policy DC12 of the Cumbria (MWDF) Generic Development Control Policies.

3. Every five years from the date of this permission, a detailed scheme of working and restoration for the following five years shall be submitted for approval to the Mineral Planning Authority. The detailed scheme shall be compatible with the approved scheme. Such a scheme shall include but not be limited to provision for:

a) Effective measures to protect limestone pavement within designated Limestone Pavement Order areas from damage;

b) The method, direction, sequence, depth and area of working;

c) The angles of excavated slopes and bench heights and widths;

d) The location and construction of haul roads within the site;

e) The location and height of mineral stockpiles;

f) The location, height, size, shape and surface treatment of any overburden and quarry waste spoil heaps, including screening bunds;

g) The separate stripping and storage of topsoil and subsoil, including the location, height, design and treatment of any soil mounds;

h) The construction and maintenance of fences, walls and hedges as appropriate to safeguard the public and livestock;

i) The disposal of water from the site and the drainage of the site during its operation and final restoration;

j) Restoration to provide nature conservation, landscape and recreation benefits, including phasing, treatment of final quarry faces, pedestrian access to the central island, the contouring and treatment of the spoil heaps, the grading and levelling of the quarry floor, the utilisation of the stored subsoil and topsoil, the formation of water features, habitat creation, seeding, and tree and shrub planting.

The approved scheme shall thereafter be implemented throughout the operational life of the site.

**Reason:** To mitigate the impact on amenity, to safeguard limestone pavement, to reserve for subsequent approval details relevant to the permitted development not submitted with the planning application and to allow for the formal modification of the approved scheme resulting from any changed circumstances that may arise throughout the life of this permission, in accordance with Policy CS4 and Policies DC2 and DC10 of the Cumbria MWDF Core Strategy and Generic Development Control Policies.

4. In the event that mineral working permanently ceases prior to the full implementation of the approved scheme, a revised scheme to include details of the restoration, aftercare and timescale for the completion of the restoration
works shall be submitted for approval to the Mineral Planning Authority, within three months of the cessation of working. Such a revised approved scheme shall be fully implemented.

**Reason:** To secure the proper restoration of the site in the event that operations cease prior to the full implementation of the scheme, in accordance with Policy DC16 of the Cumbria (MWDF) Generic Development Control Policies.

5. In the event that mineral extraction is temporarily suspended for a period exceeding two years, then within 26 months from the suspension of mineral extraction an interim restoration scheme and timetable for its completion shall be submitted for approval to the Mineral Planning Authority. The approved interim restoration scheme shall then be implemented in its entirety.

**Reason:** To secure the satisfactory interim restoration of the site in the event of the temporary cessation of mineral working, in accordance with Policy DC16 of the Cumbria (MWDF) Generic Development Control Policies.

6. If the operations hereby permitted are suspended for a period of three months or more, then the operator shall give written notification to the Mineral Planning Authority of the date upon which the operations were suspended. Written notification shall also be given to the Mineral Planning Authority prior to the resumption of operations following a temporary suspension.

**Reason:** To enable that the Local Planning Authority to determine the extent of any periods when the development hereby permitted is suspended and to seek the interim restoration of the site where appropriate.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other order revoking and re-enacting that Order), planning permission shall be sought and obtained from the Mineral Planning Authority, before any buildings, structures, or erections, plant or machinery are erected on the site or on any ancillary mining land, except that this condition shall not apply within the area edged orange on Drawing No 466/RD7C, dated 21 June 1999.

**Reason:** To maintain control over additional built development upon the site in the interest of amenity, in accordance with Policy CS4 and Policies DC2, DC10 and DC12 of the Cumbria MWDF Core Strategy and Generic Development Control Policies.

8. Any scrap or redundant machinery arising from the development shall be stored for a temporary period only in accordance with the locations shown on Drawing No 9020/8, dated October 2000.

**Reason:** To minimise the visual impact of the development, in accordance with Policies DC2 and DC12 of the Cumbria MWDF Generic Development Control Policies.

**Hours of Working and Transportation**

9. No mineral extraction operations shall take place on site outside the hours 06.00 to 19.00 hours Mondays to Fridays and 06.00 to 12.00 hours on Saturdays.
Reason: To ensure that no mineral extraction operations hereby permitted take place outside working hours which would lead to an unacceptable impact upon local amenity, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

10. No mineral extraction operations, mineral processing or the loading and transportation of minerals or mineral products shall take place within 300m of a noise sensitive property in Clawthorpe (as shown on Drawing No 466/RD4C; dated 21 June 1999) outside the hours 08.00 to 17.00 hours Mondays to Fridays.

Reason: To ensure that no operations hereby permitted take place outside working hours which would lead to an unacceptable impact upon local amenity, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

11. No soil/overburden removal, replacement or storage activities or bench drilling operations shall take place outside the hours 09.00 to 17.00 hours Mondays to Fridays.

Reason: To ensure that no operations hereby permitted take place outside working hours which would lead to an unacceptable impact upon local amenity, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

12. No mineral processing, including crushing and screening operations, or the loading and transportation of minerals or mineral products shall take place outside the hours 06.00 to 22.00 hours Mondays to Fridays and 06.00 to 13.00 hours on Saturdays.

Reason: To ensure that no mineral processing, loading or transportation takes place outside working hours which would lead to an unacceptable impact upon local amenity, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

13. Except in the case of emergency, such instances to be notified to the Local Planning Authority, blasting shall not take place more than once each day or outside the hours 10.00 to 16.00 Mondays to Fridays. There shall be no blasting on Saturdays, Sundays, Bank or Public Holidays.

Reason: To restrict the frequency and timing of blasting so that it will cause least inconvenience and disturbance to people living and working in the locality, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

14. No mineral operations, including the transportation of minerals and mineral products, shall take place on Sundays or on Bank or Public Holidays.

Reason: To ensure that no operations hereby permitted take place outside working hours which would lead to an unacceptable impact upon local amenity, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

15. Conditions 9 to 14 shall not operate so as to prevent the use of pumping equipment and the carrying out, outside these hours, of essential maintenance
to plant and machinery used on site.

Reason: To allow pumping equipment to be used and for essential maintenance to be undertaken outside the specified working hours.

Access, Traffic and Travel

16. The access road shall be kept clean and maintained in a good standard of repair for the life of the operations hereby permitted.

Reason: To ensure that no material from the access road is carried on to the public highway in the interests of highway safety, in accordance with Policy DC1 of the Cumbria MWDF Generic Development Control Policies.

17. No loaded lorries shall leave the site unsheeted.

Reason: In the interest of local amenity and highway safety, in accordance with Policy DC1 of the Cumbria MWDF Generic Development Control Policies.

18. Efficient wheel and body cleaning facilities shall be provided on site, used by all commercial vehicles leaving the site and maintained for the life of the operations.

Reason: To ensure that material is not deposited onto the public highway in the interests of local amenity and highway safety, in accordance with Policies DC1 and DC2 of the Cumbria MWDF Generic Development Control Policies.

19. The total number of laden heavy goods vehicles leaving the site shall not exceed 180 on any weekday and 90 on Saturdays. There will be an exception for 50 weekdays and 10 Saturdays in any one calendar year where the number shall not exceed 240 and 120 respectively. A record of all laden heavy goods vehicles leaving the site each day shall be maintained by the operator and access shall be afforded to the Mineral Planning Authority on request.

Reason: To keep to acceptable levels the impact of lorry traffic on the amenity of local residents and other road users and in the interests of highway safety, in accordance with Policies DC1 and DC2 of the Cumbria MWDF Generic Development Control Policies.

20. The operator shall erect and maintain in legible condition, for the life of the operations, a notice directing the drivers of all heavy goods vehicles to turn right when leaving the quarry. The notice shall also display the voluntary routing agreement in operation at the quarry and state that drivers of heavy goods vehicles should abide by the agreement and the sanctions that will be applied if they breach the agreement.

Reason: To inform drivers of heavy goods vehicles of the voluntary routing agreement and to ensure that drivers of heavy goods vehicles turn right when leaving the quarry in the interests of amenity and highway safety, in accordance with Policy DC1 of the Cumbria MWDF Generic Development Control Policies.
21. The access track between the southwest limit of excavation and the screening bund shown edged brown on Drawing No 466/SK37 (dated 6 April 2000) shall not exceed 5m in width and the safety margin on either side of this access track shall not exceed 2.5m in width. This access shall not be used other than to provide vehicular access for quarry management purposes, for emergency services and for the blast hole drilling which is necessary to produce the final exposed face.

Reason: In the interests of local amenity, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

22. The measures identified in Sections 3 and 4 of the Travel Plan (Axis; Ref. 1741-01-TP01b, dated June 2016) shall be implemented within 6 months of the date of this permission. On an annual basis thereafter and for the duration of quarrying operations at the site, the effectiveness of these measures shall be reviewed against established targets, and, where necessary, modifications made during the following year, in order to achieve the objectives of the Travel Plan.

Reason: To aid the delivery of sustainable transport objectives, in accordance with ‘saved’ Policy Tr10 of the South Lakeland Local Plan (adopted September 1997).

Control of Blasting

23. Ground vibration as a result of blasting operations shall not exceed a peak particle velocity of 6mm per second in 95% of all blasts measured over any period of 6 months and no individual blast shall exceed a peak particle velocity of 9mm per second as measured at vibration sensitive properties. The measurement to be the maximum of three mutually perpendicular directions taken at the ground surface.

Reason: To safeguard the amenity of local residents and to protect the structural integrity of buildings and structures outside the site boundary, by ensuring that blasting vibration does not cause a nuisance outside the site boundary, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

24. For the purposes of Conditions 23, a vibration sensitive property shall be defined as any occupied building, not under the control of the developer, existing outside the site boundary where the occupants of such buildings or the integrity of such buildings are likely to be adversely affected by an increase in vibration levels.

Reason: To clarify the meaning of a vibration sensitive building.

25. Within three months of the date of this permission, the operator shall submit to the Local Planning Authority for written approval, a detailed blasting scheme to include but not be limited to:

a) The establishment and subsequent maintenance and refinement of a regression line blast model for the site to inform blast design/charge weights to ensure that the blast limits set out in Condition 23 are not exceeded;

b) The monitoring of all blasting episodes to improve the accuracy of the
regression line blast model, including the method for accurately establishing the distance the vibrograph is stationed from the blast and the identification of blast monitoring locations;

c) The restriction of blasting events to a maximum of once each day (except in case of an emergency), and procedures in place to ensure that all blasts are preceded by visible and audible warnings and following the last, an audible ‘all clear’ signal to be given;

d) A procedure for recording, investigating and responding to complaints relating to blasting whether received directly or via Cumbria County Council as the Mineral Planning Authority, or South Lakeland District Council;

e) In the event of a complaint, affording the Mineral Planning Authority access to the regression line blast model and associated data;

f) A procedure for reporting the results of blast monitoring and any complaint investigations to the Mineral Planning Authority, and

g) The methods to be employed to minimise the effects of air overpressure arising from blasting, having regard to blast design, methods of initiation and the weather conditions prevailing at the time.

The approved monitoring scheme shall thereafter be implemented in its entirety and the results submitted to the Minerals Planning Authority on request during permitted operational hours.

*Reason:* To ensure compliance with the conditions relating to blasting and that air blast overpressure does not cause a nuisance outside the site boundary, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

26. No secondary blasting shall be carried out.

*Reason:* To protect the amenities of the local environment, in accordance with Policy CS 4 and Policies DC2 and DC10 of the Cumbria MWDF Core Strategy and Generic Development Control Policies.

**Control of Noise**

27. All plant, equipment and machinery used in connection with the operation and maintenance of the site shall be equipped with effective silencing or sound proofing equipment and shall be maintained in accordance with the manufacturers specification at all times throughout the development. Where reversing or other alarms are fitted to equipment, plant or machinery, they shall only be of a broadband “white noise” type.

*Reason:* To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

28. The noise level attributable to the approved operations shall not exceed 53 dB(A) at any noise sensitive properties between the hours of 07.00 and 19.00 Mondays to Fridays or 07.00 and 13.00 on Saturdays or 42 dB(A) outside of these hours.
29. Notwithstanding Condition 28 the noise levels arising from temporary operations, such as soil/overburden stripping, replacement and storage activities for a maximum of 8 weeks in any 12 month period shall not exceed 70 dB(A) at any noise sensitive properties.

**Reason:** To limit the period within which these noisier, but necessary, operations can take place in the interests of local amenity, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

30. For the purposes of Conditions 28 and 29:-
   a) The noise level is expressed as a one hour free field LAeq. Free field shall be defined as a point 3.5 metres in front of the facade of any noise sensitive property facing the mineral extraction operations. Any measurements to check compliance shall have regard to the effects of extraneous noise and shall be corrected for any such effects.
   b) A noise sensitive property shall be defined as any occupied building, not under the control of the developer, existing outside the site used as a dwelling, hospital, school, place of worship, office or any other purpose where the occupants are likely to be adversely affected by an increase in noise levels.

**Reason:** To define the meaning of the noise level and of a noise sensitive property.

31. Noise shall be monitored, suppressed, and exceedancies and complaints dealt with in accordance with the procedures set out in Section 2 and Section 5 of the Environmental Scheme by Advance Environmental, dated 5 January 2016.

**Reason:** To enable noise to be adequately monitored for the duration of the development, and to safeguard local amenity, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

**Control of Dust**

32. Dust shall be suppressed and monitored and complaints dealt with in accordance with the procedures set out in Sections 4 and 5 of the Environmental Scheme by Advance Environmental, dated 5 January 2016.

**Reason:** To safeguard the amenities of the locality from the effects of dust arising from the development, in accordance with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

**Control of Artificial Lighting**

33. All artificial lighting units installed on the site shall be so sited and shielded as to be incapable of direct sight from the A6070 or residential properties outside the site.

**Reason:** To safeguard the amenity of local residents and in the interests of highway safety, in accordance with Policy DC1 of the Cumbria MWDF
Safeguarding of Watercourses And Drainage

34. Throughout the period of working, restoration and aftercare, the operator shall protect and support any ditch, watercourse or culvert passing through the permission area, or satisfactorily divert it and shall not impair the flow or render less effective drainage onto and from land adjoining.

Reason: To safeguard local watercourses and drainages and avoid the pollution of any watercourse or groundwater resource, in accordance with Policies DC13 and DC14 of the Cumbria MWDF Generic Development Control Policies.

35. Throughout the period of working and restoration, provision shall be made for the collection, treatment and disposal of all water entering or arising on the site, including an increased flow from the land, to ensure that there shall be no pollution or flooding of watercourses by the approved operations.

Reason: To avoid the pollution of any watercourse or groundwater resource, or flooding, in accordance with Policies DC13 and DC14 of the Cumbria MWDF Generic Development Control Policies.

36. No fixed chemical, oil or diesel storage tanks shall be erected on the worked area. All mobile storage containers must be of the double skinned variety. All fixed facilities for the storage of chemical, oil or diesels within the works area shall be sited on impermeable bases and surrounded by impermeable bund walls. The volume of the bunded compound shall be at least equal to the capacity of the largest tank or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. There shall be no discharge to any watercourse, land or underground strata. Associated pipework should be above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be designed to discharge downwards into the bund.

Reason: To avoid the pollution of any watercourse or groundwater resource, in accordance with Policy DC14 of the Cumbria MWDF Generic Development Control Policies.

Retention of Soils

37. All topsoil and subsoil that remain shall be retained on the site; none shall be removed.

Reason: To ensure that all the soils that remain on the site are kept for use in the restoration of the site, in accordance with Policy DC15 of the Cumbria MWDF Generic Development Control Policies.

Control of Weeds

38. All non-cropped areas of the site and all topsoil, subsoil and overburden storage and screening mounds shall be kept free from noxious agricultural weeds and all necessary steps shall be taken to destroy such weeds at early stages of growth to prevent seeding.

Reason: To properly manage the site and to prevent the spread of weeds onto...
adjacent land.

Replacement of Hedges and Walls

39. Hedges, walls, fences, gates and stiles if damaged, destroyed or in need of maintenance during the course of the approved operations shall be repaired or restored on their original lines or replaced on such lines as may be agreed between the operator, the Mineral Planning Authority and the owners, lessees or occupiers of the land bounded by such walls or fences.

Reason: To secure the satisfactory reinstatement of field boundaries for the management of the land and in the interests of visual amenity.

Landscaping

40. All trees and shrubs planted in accordance with the requirements of this permission shall be protected, managed and maintained until the expiry of this permission. Any trees or shrubs which die or become seriously damaged or diseased within five years of planting shall be replaced with plants of the same species or such species as may otherwise be agreed with the Mineral Planning Authority.

Reason: To secure the satisfactory establishment of the tree planting in the interests of amenity, in accordance with Policy DC12 of the Cumbria MWDF Generic Development Control Policies.

Restoration and Aftercare

41. The site shall be progressively restored in accordance with the approved scheme, as described in Section 3.2 Summary of Restoration in the Supporting Statement; dated June 2016 and Section 6.2 Restoration in the Environmental Statement Volume 1, to achieve the restored site as shown on Figure 6.8 Revised Restoration Scheme (Drawing No. M15.106.D.009).

Reason: To secure the proper restoration of the site in accordance with the approved scheme, in accordance with Policy DC16 of the Cumbria MWDF Generic Development Control Policies.

42. The site shall be subject to the details set out in the approved Aftercare Scheme for the Restoration of the Quarry prepared by Marshall Ecology; dated March 2016. This approved scheme shall be carried out for a period of five years from the completion of restoration operations on each phase of restoration.

Reason: To secure the proper aftercare of the restored land in accordance with the approved scheme, in accordance with Policy DC16 of the Cumbria MWDF Generic Development Control Policies.

43. At least once each year during the aftercare period there shall be a formal review, under the provisions of Section 72(5) of the Town and Country Planning Act 1990, to consider the operations which have taken place on each restored phase and to agree a programme of management for the coming year which shall be adhered to by the operator. The parties to be invited to attend this review shall be agreed in advance with the Mineral Planning Authority. At least 2 weeks before the date of each review the operator shall provide all people attending the meeting with a record of the management and operations
carried out on each phase during the period covered by the review and a proposed programme of management for the coming year.

Reason: To secure the proper aftercare of the restored land in accordance with the approved scheme, in accordance with Policy DC16 of the Cumbria MWDF Generic Development Control Policies.
Application No: 5/16/9011
Applicant: Aggregate Industries UK Ltd
Aggregate Industries UK Ltd
High Roads
Parish: Holme Parish Council
Received: 3 August 2016

PROPOSAL: Section 73 Planning Application to vary Planning Condition No.2 of Planning Permission Reference No. 5/90/3339 dated 11th January 1991 for the purposes of aligning the permitted hours of operations at the Ready Mixed Concrete Plant with all other operations at Holme Park Quarry, Cumbria

LOCATION: Holme Park Quarry, Burton-in-Kendal, Carnforth, Cumbria, LA6 1NZ
1.0 RECOMMENDATION

1.1 That subject to the applicant first entering into a Section 106 Agreement regarding vehicle routing to ensure that HGVs, associated with the operation of the RMC Plant, enter and leave the Holme Park Quarry site and the RMC Plant itself from a northerly direction along the A6070 to avoid Burton-in-Kendal, and to secure compliance by such HGV drivers with a Hauliers’ Code of Practice, planning permission be **Granted** subject to the conditions set out in Appendix 1 to this report.

2.0 THE PROPOSAL

2.1 Planning permission is sought to align the working hours of the Ready Mix Concrete (RMC) Plant with the operating hours of the quarry so that they are consistent. The RMC plant is located within the quarry, immediately off the site access road.

2.2 The quarry is currently operated under a planning permission issued on 11 August 2000 (ref 5/96/9005). The RMC Plant is operated under a separate planning permission issued on 11 January 1991 (ref 5/90/3339). The quarry and the RMC plant are operated by the same operator.

2.3 Condition 2 of the RMC Plant planning permission states:

‘The operation of the plant shall be restricted to between 7:00am to 7:00pm Monday to Friday and 7:00am to 3:30pm Saturdays with no working on Sundays or Bank Holidays, unless in exceptional circumstances as agreed with the County Planning Officer.’

2.4 The proposal is to amend the hours of operation to the same that apply to the quarry operations, as set out in Condition 14 of the planning permission for the quarry. Condition 14 of the quarry permission states:

‘No mineral processing, including crushing and screening operations, or the loading and transportation of minerals or mineral products shall take place outside the hours 06:00 to 22:00 hours Mondays to Fridays and 06:00 to 13:00 hours on Saturdays.’

2.5 The quarry permission also requires as part of a Section 106 legal agreement, that all HGVs leaving the site turn right out of the site entrance and travel north along the A6070 and return to the quarry using the same route, so avoiding the village of Burton-in-Kendal. This agreement further requires that HGV drivers adhere to a Haulier Code of Practice, which requires drivers to comply with a set of rules to ensure good and courteous driving practices both on and off site. These requirements do not currently apply to HGVs associated with the RMC Plant. As part of this application, the applicant is proposing to enter into a legal agreement to require all HGV drivers associated with the operation of the RMC Plant to adhere to the same arrangements.

2.6 The current quarrying permission requires that quarrying operations cease on 31 December 2023. As well as submitting this planning application to vary the RMC Plant’s operational hours, the applicant has submitted a planning application to extend quarrying operations beyond the current expiry date of 2023 by a further 20 years, to 2043 (planning application reference 5/16/9010) and which is reported elsewhere on this agenda.
2.7 Condition 5 of the RMC Plant permission states:

‘On the cessation of quarrying activities at Holme Park Quarry this consent shall expire and the plant shall be removed and the site restored to the satisfaction of the County Planning Authority.’

2.8 Consequently, if planning permission is granted for the proposed extension of time for the operation of Holme Park Quarry, the permission for the RMC Plant would expire at the same extended time.

3.0 DESCRIPTION AND LOCATION OF THE SITE

3.1 Holme Park Quarry is located approximately 15km to the south of Kendal, due east of Home and due north of Burton-in-Kendal villages, on the eastern side of the M6 Motorway, approximately 3.5km south of Junction 36. The RMC plant is located immediately to the west of the processing plant within the operational quarry site close to the quarry entrance.

3.2 The hamlet of Clawthorpe lies immediately adjacent to the south western corner of the site. There are several properties which lie around 100-220m from the quarry boundary. A single property, Curwen Woods, lies approximately 135m from the quarry boundary adjacent to the RMC plant, and a few further properties at Holme Park Farm, lie approximately 420m to the north west of the quarry boundary.

3.3 There are three public rights of way in the immediate vicinity of the site. One (Byway No 533010) runs from Holme Park Farm west to east along the northern boundary of the quarry to join the Clawthorpe Road to the east of the site. One (Footpath No 533009 adjoining Footpath No 507019) runs from the A6070, south of the quarry site access, in a south easterly direction along the south western edge of the site and joins the unnamed road north of Clawthorpe. One (Footpath No 533008) runs from the A6070, north of the junction with the B6384, and runs in a south easterly direction before joining up with Pipers Lane in Clawthorpe, again to the south of the quarry.

3.4 The site falls within a landscape area defined as Sub type 3a Open Farmland and Pavements, around Farleton Knott, as defined in the Landscape Character Guidance and Toolkit (Cumbria County Council; March 2011). This type of landscape is found on Lower Carboniferous limestone with calcareous brown soils, and is characterised by steep scarp limestone slopes; limestone pavement or other rocky outcrops; grazed land with stone wall field boundaries; rough pasture as open common or high fell in higher areas; sporadic scrub and woodland on steep scarp slopes, and extensive open and uninterrupted views from high ground.

3.5 The site is located within the western foothills of the limestone crags that form the upland areas of Farleton Fell, Newbiggin Crags, Holme Park Fell, Dalton Crags and Hutton Roof Crags. The latter form the highest point of the range reaching some 274m AOD some 1.5km to the south east of the site. Land surrounding the site towards the north east varies from 51m AOD at the site entrance onto the A6070, and reaching a maximum height of around 145m AOD along the edge of Holme Park Fell. Farleton Knott rises to 274m AOD some 1.3km to the north of the site. The landform to the west falls away gradually towards the floodplain of the River Bela at an average height of 23m AOD. This plain consists of extensive areas of moss and fenland and many small drumlin type features.
reaching up to 40m AOD, with larger features (drumlins up to 120m AOD) to the west of the floodplain separating this area from the coastal plain and marshes associated with Morecambe Bay.

3.6 An unworked ‘island’ lies within the central part of the quarry which is designated as part of the Clawthorpe Fell National Nature Reserve (NNR) and forms part of the Farleton Knott Site of Special Scientific Interest (SSSI) and Morecambe Bay Pavements Special Area of Conservation (SAC) which both lie immediately to the north east and western boundaries of the site. The SAC also extends to the south west. Holme Park Quarry Local Nature Reserve (LNR) is located immediately south of the quarry void and Hutton Roof Crags SSSI lies to the south west of the site, occupying the same area as the SAC.

4.0 PLANNING HISTORY

4.1 Planning permission for the RMC Plant was granted on 11 January 1991 (ref 5/90/3339).

5.0 PLANNING POLICY

5.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Government policy is a material consideration that must be given appropriate weight in the decision making process.

5.2 The _National Planning Policy Framework_ [NPPF] which was published on 27 March 2012 and the national online _Planning Practice Guidance_ (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF are considered to be relevant to the determination of this application:

- Paragraphs 6-10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Paragraphs 109 – Environment water and air quality
- Paragraphs 17,18, 19, 28 – Economic Sustainability
- Paragraph 118 – Environment – Nature Conservation
- Paragraph 120 – Local Amenity, Traffic, Transportation
- Paragraph 144, 145 – Sustainable Development and Supply of Minerals
- Delivering Sustainable Development
  - Section 1 - Building a strong, competitive economy
  - Section 3 - Supporting a prosperous rural economy
  - Section 4 - Promoting sustainable transport
  - Section 7 - Requiring good design
  - Section 8 - Promoting healthy communities
  - Section 10 - Meeting the challenge of climate change, flooding and coastal change;
  - Section 11 - Conserving and enhancing the natural environment.
  - Section 12 - Conserving and enhancing the historic environment
  - Section 13 - Facilitating the sustainable use of minerals

5.3 The following sections of the PPG are also of relevance:
5.4 The relevant development plan for this proposal comprises the Cumbria Minerals and Waste Development Framework’s (CMWDF) Core Strategy 2009-2020 (CS) and Generic Development Control Policies 2009-2020 (GDCP) both adopted in April 2009. The key policies within these relevant to the determination of this planning application are considered to be:

- Policy CS 1 Sustainable Location and Design
- Policy CS 2 Economic Benefit
- Policy CS 3 Community Benefits
- Policy CS 4 Environmental Assets
- Policy CS 5 Afteruse and Restoration
- Policy CS 13 Supply of Minerals
- Policy CS 14 Minerals Safeguarding
- Policy DC 1 Traffic and Transport
- Policy DC 2 General Criteria
- Policy DC 3 Cumulative Environmental Impacts
- Policy DC 6 Criteria for Non-Energy Minerals Development
- Policy DC 10 Biodiversity and Geodiversity
- Policy DC 12 Landscape
- Policy DC 13 Flood Risk
- Policy DC 14 The Water Environment
- Policy DC 15 Protection of Soil Resources
- Policy DC 16 Afteruse and Restoration

5.5 The emerging Cumbria Minerals and Waste Local Plan 2015-2030 was subsequently submitted to the Secretary of State for examination by an independent Inspector on 9 September 2016. Hearing sessions for the examination were held between on 29 November and 16 December 2016. Following this, a Table of Main Modifications to the Plan was prepared and consulted on between 27 March and 5 May 2017. The Inspector is now in the process of finalising her Report on changes necessary to ensure that the Local Plan is sound and legally compliant. As the emerging plan progresses greater weight can be attached to it in the decision making process.

5.6 South Lakeland Core Strategy, adopted 20 October 2010, and South Lakeland Local Plan Land Allocation Development Plan Document Policies, adopted 17 December 2013, also form part of the development plan in this instance. The key policies of relevance within this document are as follows:

- Policy CS1.1 Sustainable Development Principles
- Policy CS8.1 Green infrastructure
- Policy CS8.2 Protection and enhancement of landscape and settlement character
- Policy CS8.4 Biodiversity and geodiversity
- Policy CS8.8 Development and flood risk
- Policy CS8.9 Minerals and waste
- Policy CS10.2 Transport impact of new development

5.7 The saved policies of the South Lakeland Local Plan - adopted September 1997 and altered 2006 are also relevant and should be referred to until the Development Management Policies Development Plan Document (DPD), which
is currently being progressed, has been adopted. These include the following:

- Policy C6 Sites of International Importance
- Policy C7 Sites of National Interest
- Policy C9 Landscape Features of Major Nature Conservation Importance
- Policy C8 Sites of Regional or Local Nature Conservation Importance
- Policy C10 Protected Species
- Policy C22 Flood Risk
- Policy L10 Rights of Way
- Policy S3 Landscaping

6.0 CONSULTATIONS AND REPRESENTATIONS

6.1 South Lakeland District Council (SLDC) – Planning: No objection provided the revised planning conditions in respect of hours of site operation and noise generation are fully considered so as to continue to safeguard the residential amenity of occupants of nearby dwellings during the periods of site operation and that existing traffic management and routing schemes/agreements are retained for the period of operation and restoration of the site.

6.2 South Lakeland District Council – Environmental Protection (SLDCEP): No objection. Seek the applicant’s confirmation that there are no residential properties within 300m of the plant, as restricted hours of operation would apply (in line with those of the quarry) if there are. If this can be confirmed then SLDCEP propose conditions to control noise, lighting and dust and be consistent with other permissions. SLDCEP would also like an additional planning condition to restrict the number of HGVs visiting the RMC Plant daily, as is the case with the quarry, and for details of exact numbers to be agreed with the operator, and welcomes the application of the traffic routing arrangements to the RMC associated HGVs as well as those associated with the quarry.

6.3 Burton-in-Kendal Parish Council: No objection in principle to a variation in the concrete plant hours of operation, but has a number of comments which are consistent with their representations made on the extension of time application (ref no 5/16/9010). The Parish Council considers that:

- Both applications fail to recognise the growth and changing expectations of the local community, and so consider the impacts will affect a much larger population than the applications envisage;
- Residents are entitled to expect that the operator will do all it can to limit the adverse effects of the operations at the quarry, and ask that the Planning Committee undertakes a site visit to the quarry, the local community and the nature reserves before making a decision;
- The most far reaching effects of the quarry operations for most local residents is the number of HGV movements, and consider that it is disappointing that reductions and more measures to mitigate the effects of so many HGVs are not considered in the application;
- The restriction of HGV traffic through the village is referred to as ‘voluntary’ throughout the application, subject to a separate agreement; that a complete ban on HGV traffic passing through the village of Burton-in-Kendal should be imposed on all HGV traffic going to or departing from the quarry; that this ban should be an absolute and binding condition of the planning application; that the ban and how it will be enforced should be clearly written within the application, and that the extension of the ban of HGV traffic through the village to include cement lorries is welcomed, but the Parish Council asks
why it has not already been imposed as a voluntary arrangement;

- The rapid growth of recreational cycling and the need for walkers completing the Limestone Link to walk on the A6070 for several hundred yards should have been considered in the analysis of the effects of HGV traffic; that, given the reduced rate of operation of the quarry, Saturday working should be stopped altogether, to include the movement of HGVs, which would significantly improve the growing recreational use of the A6070, and supports the suggestion by a local resident that a footway alongside the A6070, for the Limestone Link walkers, should be provided at the applicants expense, a requirement that should apply to this as well as the extension of time application;

- There are stretches of the A6070 where standing water is a problem after heavy rain, particularly at the junction between the quarry access road and the A6070; that the problem to be worsening, and that there is an expectation that the County Council and will ensure sufficient provision for any new agreement or variation to the existing agreement for maintenance of the A6070.

6.4 Holme Parish Council: No objection or comments.

6.5 CCC Highway Authority: No objection provided the routing arrangements and conditions controlling hours of operation and HGV traffic, contained in the original planning permission for the operation of the quarry, remain in place.

6.6 CCC Lead Local Flood Authority: No objection.

6.7 Highways England: No objection.

6.8 The application has been advertised by site notice, in the press and nearby properties considered to be most materially affected notified by letter. The local county councillor has also been notified. One representation has been received raising the following summarised observations:

- A restriction to prevent HGVs associated with the concrete plant passing through Burton-in-Kendal would be beneficial, but considers that this should be a planning requirement rather than a voluntary agreement and should not be conditional upon the time extension application (ref 5/16/9010) being granted permission by the County Council, and

- The applicant has applied for a 20 year extension to extract the same quantity of limestone as in the original permission due to expire in 2023. The intensity of extraction is therefore reduced and the hours of operation could be reduced accordingly. To improve amenity and disturbance to residents in Clawthorpe, the working hours for the quarry more aligned with those of the concrete plant rather than vice versa, particularly the morning start times changed from 6.00 to 7.00. It is proposed that the proposed start times for both the quarry and the concrete plant would be 07.00 Monday to Friday and from 08.00 to 13.00 on Saturday.

7.0 PLANNING ASSESSMENT

7.1 The proposal is essentially to align the operating hours of the concrete plant to be consistent with those of the quarry for operational reasons. The key planning issues relevant to the consideration of this planning application are the potential impacts of the extended operating hours upon local residential amenity; the highways implications of these proposals, and the extension of the life of the
operations should planning permission for the extension of life of the quarry be granted.

Impacts on Local Amenity

7.2 Policy DC2 (General Criteria) of the CMWLP requires minerals proposals to demonstrate that noise levels would be within acceptable limits, and that there would be no significant degradation of air quality from dust and emissions. Policy DC2 of the Draft Cumbria Minerals and Waste Local Plan reiterates the general thrust of this policy and there are specific policies to control the impacts of noise (Policy DC3), and dust (Policy DC5).

7.3 Whilst the proposed amendments to the hours of operation for the RMC Plant to be consistent with those of the quarry would enable operations to start one hour earlier on weekday and Saturday mornings and finish three hours later in the evenings during weekdays, operations would cease earlier on Saturday afternoons. There would continue to be no working permitted on Sundays, Bank or Public Holidays. Furthermore, the proposed revision to the condition is to remove the clause that requires adherence to the hours of operation ‘unless in exceptional circumstances’. This would remove any uncertainty or ambiguity relating to hours of operations, from a residential amenity perspective.

7.4 The closest residential property to the plant is Curwen Woods, approximately 135m to the south of the quarry boundary and around 350m from the plant itself set at a higher level than the quarry and is surrounded by woodland. The next closest properties are those at Holme Park Farm, the closest of which is located about 420m to the north of the quarry boundary and around 530m from the actual RMC plant site. The latter properties are located immediately adjacent to the A6070.

7.5 All of these properties fall outside the 300m threshold referred to by SLDCEP’s Officer, within which more restrictive hours should apply in order to be consistent with the quarry operations. Given the distance between the plant site and these properties and the immediate environs of the properties, it is considered that the proposed alterations to the hours of working would have negligible impacts particularly as the plant would be working consistently with the quarrying operations, even if the time extension for the quarry to operate until 2043, proposed by planning application 5/16/9010, were to be granted.

7.6 With regard to representations received, the plant is some considerable distance from Clawthorpe itself, at approximately 720m to the north of Clawthorpe House, the closest property in Clawthorpe to the plant site. The whole village also benefits from a band of woodland which extends immediately south of the plant site along the southern and western boundary of the quarry. There is no history of complaints having been received in relation to the operation of the plant. It is therefore considered that any impacts arising from an increase in plant operational hours, even if the quarry and the plant were to continue operating until 2043, would again be negligible.

7.7 It has been requested that instead of the RMC hours of operation being changed to align with those of the quarry, the operating hours at the quarry be reduced to align with those of the RMC plant, in order to protect the amenity of residents in Clawthorpe. A current planning condition attached to the quarrying permission affords residents of Clawthorpe in closest proximity to the quarry workings a greater degree of protection by requiring no mineral extraction, processing or
transportation of mineral within 300m of a noise sensitive property in Clawthorpe shall take place outside 08.00 to 17.00 hours Mondays to Fridays. It is proposed that this planning condition is retained as part of considerations relating to planning application 5/16/9010.

7.8 In terms of potential impacts on rights of way in the vicinity of the site, the closest of these lies immediately south of the quarry access and runs along the southern boundary of the quarry approximately 80m from the boundary of the RMC plant site at its closest point. There may be some benefit of the plant ceasing earlier on Saturday afternoons and extended hours early on weekday mornings and later into the weekday evenings is unlikely to have any negative impact for walkers on the paths. Overall, and in the context of the operation of the site as a quarry, it is considered that impacts on the footpaths would be minimal, even if operations were to be extended until 2043.

7.9 The proposed planning conditions have been amended to reflect the recommendations made by SLDCEP’s Officer. As well as controls on hours of operation, direct controls over noise, dust and lighting have also been introduced. As a result, the proposed planning conditions are considered to be more extensive and stringent than the existing controls to reflect modern operational practices and which would be beneficial to mitigating impacts and protecting local amenity.

7.10 It is considered that the proposed changes to operational hours, combined with additional planning conditions to control noise, dust and lighting, would ensure that impacts upon local amenity arising from the continued operation of the RMC plant, even if extended until 2043, would be minimal in the context of the continued operation of the quarry. It is therefore considered that the proposals accord with the policies of the development plan.

**Highways Implications**

7.11 Policy DC1 (Traffic and Transport) requires proposals for minerals development to be located where they relate well to the strategic road network and/or have the potential for rail/sea transport and sustainable travel to work, and are located to minimise operational ‘minerals road miles’. Minerals development not located as such may be permitted if they do not have unacceptable impacts on highway safety and fabric, the convenience of other road users and on community amenity; an appropriate standard of access and traffic routing can be provided, and appropriate mitigation can be provided for unavoidable impacts. These policies have largely been rolled forward into the Draft Minerals and Waste Local Plan. The South Lakeland Local Development Framework Core Strategy contains similar policies and policy objectives (Policy CS10.2 - Transport Impact of New Development).

7.12 The applicant has proposed that should permission be granted for the amended hours of operation, they would enter into a legal agreement with the County Council to require all RMC plant HGV traffic to adhere to the same vehicle routing arrangements which currently only apply to quarry HGV traffic. This would, however, be with the exception of local deliveries to Burton-in-Kendal itself which they request should be excluded from these arrangements. The proposal to include RMC plant HGV traffic in these arrangements would be beneficial in terms of reducing the impacts of traffic travelling through Burton-in-Kendal and which is considered acceptable. This is a clause of the existing legal agreement relating to HGV traffic associated with the quarry, and would meet the
general sustainability objectives of development plan policy.

7.13 In response to concerns raised about the ‘voluntary’ nature of the routing agreement, the only effective way of securing a routing agreement in this case would be through a legal agreement, as opposed to a planning condition. A planning condition would be unenforceable in this situation as the HGV drivers are not necessarily under the direct control of the applicant. The use of a legal agreement to control HGV traffic associated with the quarry, and the imposition of sanctions by the operator, should the routing arrangements not be adhered to, has operated successfully for several years. It is simply proposed to apply similar arrangements, including the requirement for HGV drivers to adhere to a Haulier Code of Practice, to HGV traffic associated with the RMC Plant. Furthermore, securing this routing agreement would not be conditional upon any permission being granted for an extension of time for the operation of the quarry, which is the subject of planning application 5/16/9010. These are entirely separate planning applications and determination of one must be independent from that of the other.

7.14 It is considered that SLDC Environmental Protection’s request for an additional condition to restrict the number of HGVs associated with the operation of the RMC Plant would be unnecessary. HGV movements have never been restricted since planning permission to operate the plant was granted in 1991; there has been no history of any complaints having been received relating to volumes of HGV traffic since then, and only recently have comments been received relating to traffic routing. The Local Highway Authority has raised no objection, subject to the routing arrangements and conditions controlling hours of operation and maximum permitted HGV traffic numbers associated with the quarry permission itself, remaining in place. There are no proposals to amend or remove these conditions. It is therefore considered that the imposition of a condition limiting the number of HGVs associated with the RMC plant would be neither reasonable nor necessary.

7.15 The proposal to control HGV traffic associated with the operation of the RMC plant to the same routing restrictions as the quarry traffic, would contribute to minimising the impact of heavy traffic in the vicinity of the quarry, in accordance with development plan policy. This would be generally beneficial to local and residential amenity and would assist in mitigating any limited impacts that could arise as a result of the increased hours of operation.

7.16 **Human Rights:** The Human Rights Act 1998 requires the County Council to take into consideration the rights of the public under the European Convention on Human Rights. Article 8 of the Convention provides that everyone has the right to respect for his private life and home save for interference which is in accordance with the law and necessary in a democratic society in the interests of, amongst other things, public safety, the economic wellbeing of the country or the protection of the rights and freedoms of others. Article 1 of Protocol 1 provides that an individual’s peaceful enjoyment of his property shall not be interfered with save as necessary in the public interest and subject to conditions provided for by law. For any interference with these rights to be justified the interference needs to be proportionate to the aims that are sought to be realised. The County Council has a duty to consider the policies of the development plan and to protect the amenities of residents as set out in those policies.

7.17 The proposal would have a limited impact on the visual, residential and
environmental amenities of the area; however, it is considered that those impacts would be insufficient to interfere with the rights of the applicant and satisfactory controls could be imposed on the proposed development to protect the amenities of the most affected residents. The impacts on the rights of local property owners to a private and family life and peaceful enjoyment of their possessions (Article 8 and Article 1 of Protocol 1) would be minimal and proportionate to the wider social and economic interests of the community and could be satisfactorily controlled by planning conditions and a legal agreement.

8.0 CONCLUSION

8.1 It is considered that the impacts arising from the proposal to extend operational hours at the RMC Plant to align with those at the quarry would be minimal, even if operations were to be extended until 2043, well beyond the life of the current permitted quarry operations. Furthermore, this proposal presents the opportunity for controls to be placed on the routing of associated HGV traffic, which would otherwise have not arisen.

8.2 It is concluded that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise, and with the planning conditions proposed, and the legal agreement in place, any potential harm would reasonably be mitigated. Furthermore, any potential harm to interests of acknowledged importance is likely to be negligible and would be outweighed by the benefits of the development. It is therefore recommended that this application be granted subject to the applicant first entering into the legal agreement controlling HGV routing and subject to the conditions set out in Appendix 1 to this report.

Dominic Donnini
Director of Environment & Highways Services

Contact: Mrs Rachel Brophy BA(Hons) MA MRTPI, Kendal, Tel: 01539 713413; Email: rachel.brophy@cumbria.gov.uk

Background Papers: Planning Application File Reference No. 5/16/9011

Electoral Division Identification: Lower Kentdale ED - Mr RK Bingham
Appendix 1
Ref No. 5/16/9011
Development Control and Regulation Committee – 18 July 2017

Proposed Planning Conditions

Time Limit for Implementation of Permission

1. This permission shall be for a limited period only, and shall expire upon the cessation of quarrying activities at Holme Park Quarry, at which time all operations hereby permitted shall cease; all buildings, structures, plant and machinery, hard standings and access roads shall be removed from the site. A scheme for the restoration of the site which shall compliment the restoration proposals for the surrounding quarry, including a timescale for implementation shall be submitted to the Mineral Planning Authority for approval in writing prior to the removal of any buildings, structures, plant and machinery, hard standings or access roads. The site shall thereafter be restored in accordance with the approved scheme.

Reason: To secure the proper restoration of the site following approval for this temporary development, in accordance with Policy DC 16 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.

Approved Scheme

2. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following:

   a. The submitted Application Form – dated 3 August 2016;
   b. The Planning Statement by Heaton Planning – dated August 2016;
   c. Plans numbered and named:
      ▪ Concrete Plant Curtilage Plan – Drawing No 9020-41 – dated 20 July 2016;
      ▪ General Arrangement of Site – Drawing No 1603/02 – dated 9 November 1990;
   d. The details or schemes approved in accordance with the conditions attached to this permission.

The existence and content of the approved documents shall be made known to all operatives responsible for the operation of the site.

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

Hours of Operation

3. No operation of the RMC plant, including loading and transportation, shall take place outside the hours 06.00 to 22.00 hours Mondays to Fridays and 06.00 to 13.00 hours on Saturdays. This condition shall not operate so as to prevent the use of pumping equipment and the carrying out, outside these hours, of essential maintennace to plant and machinery used on site.

Reason: To ensure that no operations, loading or transportation takes place outside working hours which would lead to an unacceptable impact upon local...
Control of Noise

4. All plant, equipment and machinery used in connection with the operation and maintenance of the site shall be equipped with effective silencing or sound proofing equipment and shall be maintained in accordance with the manufacturers specification at all times throughout the development. Where reversing or other alarms are fitted to equipment, plant or machinery, they shall only be of a broadband “white noise” type.

Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site, in accordance with Policy DC2 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.

Control of Dust

5. All HGV’s leaving the RMC plant site shall untilise the quarry wheel cleaning facilities before leaving the quarry site and entering the public highway to ensure they leave the site in a clean condition and to prevent the deposit of deliterious material on the access road to the quarry and public highway.

Reason: To ensure that material is not deposited onto the public highway in the interests of local amenity and highway safety, in accordance with Policies DC1 and DC2 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.

Control of Artificial Lighting

6. All artificial lighting units installed on the site shall be so sited and shielded as to be incapable of direct sight from the A6070 or residential property outside the site.

Reason: To safeguard the amenity of local residents and in the interests of highway safety, in accordance with Policies DC1 and DC2 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.

External Materials

7. The external cladding of the plant shall be retained and maintained in a dark green colour throughout the life of the plant. Details of any changes to the external finishes or colour of the RMC plant shall be submitted to the Minerals Planning Authority for written approval prior to implementation.

Reason: To minimise landscape and visual impacts of the plant in the interests of local and residential amenity, in accordance with Policy DC2 and DC12 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.

Drainage

8. The site shall be satisfactorily hard surfaced and adequate provision shall be made to contain surface water run-off on the site and to take it to the adjacent...
settling lagoon system.

Reason: To prevent any incidence of groundwater or surface water pollution, in accordance with Policies DC3 and DC14 of the Cumbria Minerals and Waste Development Framework Generic Development Control Policies.
Application No: 6/17/9005
District: Barrow
Applicant: Capita
Capita Property and Infrastructure
The Capita Building
Carlisle
Date of Receipt: 31 March 2017

Proposal: Remediation of three plots of derelict land comprising altering ground conditions to provide development platforms. Works include erection of fencing, new and enhanced habitat areas and reinstatement of foul and surface water sewers. The development platforms will form part of the larger Barrow Waterfront development.

Location: Barrow Waterfront, Barrow-in-Furness, Cumbria
1.0 RECOMMENDATION

1.1 That planning permission be **Granted** subject to the conditions set out in Appendix 1 to this report.

2.0 THE PROPOSAL

2.1 Planning permission is sought for the remediation of three derelict plots. The proposed development involves the regeneration of an additional three development platforms. The primary works include:

- Existing topsoil and organic material will be excavated to a maximum depth of 200mm and re-used in landscaping;
- Existing material excavated from high areas of site and placed in low lying areas. Suitable inert fill material to be imported to site, placed and compacted in layers to bring up site levels;
- Imported granular material to be placed and compacted in 0.5m thick layer over proposed development to bring to finished level;
- Removal of Japanese Knot Weed to the rear of plot 2;
- Reptile refugia areas south of plot 1;
- New reptile habitat on the formed St Andrews Engineering site;
- 2.4m high palisade fence with access gates;
- Creation of new pedestrian/cycle path on stopped up section of Ramsden Dock Road;
- New access to UU pumping station.

2.2 The proposed development platforms extend over an area of 11.98ha and form part of the larger Barrow Waterfront Business Park which extends to 23ha.

2.3 It is proposed that 39,100 tonnes of granular material (18,500m²) would need to be imported to raise the site levels to above the predicted flood risk level. The material would be brought onto site 1,960 HGV’s (20 tonne capacity HGVs) over a 6 month period.

2.4 Access to the site would be along the A590 which consists of Walney Road, Bridge Road and onto Michaelson Road, Harding Rise and Dova Way. It is proposed to restrict HGV movements to off-peak periods of between 0900 to 1500 hours Monday to Thursday and 0900 to 1400 hours on Friday. The proposed hours of delivery of material would not conflict with peak transport/travel times which include people travelling to/from work and school runs.

2.5 Barrow Waterfront is located on the south side of Barrow Island and is accessed from A590, Bridge Road and Michaelson Road which form part of the strategic road network to Barrow Waterfront.

3.0 SITE DESCRIPTION

3.1 Barrow Waterfront Business Park provides the gateway to the re-development of Barrow Island. The site has a good strategic road network and currently hosts a number of businesses including renewable energy companies, a batching plant and a gas condensate plant.

3.2 To the north of the site are residential properties and Barrow Shipyard, to the west is the gas condensate plant and Ramsden Dock, to the south is Anchor Basin and to the west is Walney Channel.
4.0 SITE PLANNING HISTORY

4.1 Barrow Waterfront originally formed part of the Timber Dock until it was infilled in the early 1970’s. The site was left in an unused state from 1970’s to 2006 when a planning application was submitted for its redevelopment to create a business park.

4.2 There have been a number of planning permission on Barrow Waterfront the main ones being: for works for the remediation of contaminated land, raising of levels and infrastructure works including new access roads, drainage system, public realm landscaping and re-construction of existing allotment gardens (Planning ref: 6/06/9027, approved 10 May 2007); Phase 2 of Barrow Waterfront redevelopment comprising of new access roads, infrastructure improvements and landscaping works (Planning Ref: 6/08/9010, approved 22 October 2008). Other planning applications include alterations to the allotment areas (Planning ref: 6/12/9012, approved 14 September 2012); realignment of the green corridor (Planning ref: 6/14/9006, approved 5 June 2014).

5.0 PLANNING POLICY

5.1 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise – section 38(6) Planning & Compulsory Purchase Act 2004. Government policy is a material consideration that must be given appropriate weight in the decision making process.

5.2 The Cumbria Minerals and Waste Development Framework’s (CMWDF) Core Strategy 2009-2020 (CS) and Generic Development Control Policies 2009-2020 (GDCP) both adopted in April 2009. The key policies relevant to the determination of this planning application are considered to be:

- Policy CS 1 - Sustainable Location and Design
- Policy DC1 - Traffic and Transport
- Policy DC 2 - General Criteria
- Policy DC 3 - Cumulative Environmental Impacts
- Policy DC 10 - Biodiversity and Geodiversity
- Policy DC 13 - Flood Risk

5.3 The Cumbria Minerals and Waste Local Plan 2015-2030 was submitted to the Secretary of State for examination by an independent Inspector on 9 September 2016. Hearing sessions for the examination were held between 29 November 2016 and 16 December 2016. Following discussion at the Hearing sessions, a ‘Table of Main Modifications to the Plan’ has been prepared, which will be issued for a six week public consultation at the end of March 2017. Having considered the responses to this consultation, the Inspector will send her final report to the County Council. As the emerging plan progresses, greater weight can be attached to the policies in the decision making process.


- Policy A1 – Local employment sites
- Policy E15 – Cycle provision
- Policy E 17 – Improvements for pedestrians

Policy BP23 – Waterfront business park

5.5 *The National Planning Policy Framework* [NPPF], which was published on 27 March 2012, and the national online *Planning Practice Guidance* (PPG) suite, which was launched in March 2014, are material considerations in the determination of planning applications. The following sections and paragraphs of the NPPF and/or PPG are considered to be relevant to the determination of this application:

- Paragraphs 6-10 - Achieving sustainable development
- Paragraphs 11-14 - The presumption in favour of sustainable development
- Delivering Sustainable Development
  - Section 1 - Building a strong, competitive economy
- Paragraphs 186-187 - Decision Taking

6.0 CONSULTATIONS AND REPRESENTATIONS

6.1 Barrow Borough Council Planning Department: No response received.

6.2 CCC Highway Authority: No objection subject to conditions. The scale of the traffic impact caused by the construction of the main site would overlap with the proposed works. A condition is recommended to prevent the construction periods from overlapping.

6.3 CCC Lead Local Flood Authority: The site is within Flood Zone 2 and 3. There are existing areas of surface water flooding within the site. The proposal is to raise the land out of the surface water flood area but the proposal must not increase flood risk elsewhere by displacing an area of surface water flooding onto its neighbours. A condition is recommended to prevent flooding in the area.

6.4 CCC Ecology: Overall the general trapping will carry on and use of the existing reptile fencing is acceptable. The receptor sites Barrow Slag Bank looks acceptable however work is required on Biggar Bank, Furness Golf Course and Sandscale Park. It is recommended that conditions are imposed to ensure 10 year monitoring plans for Barrow Waterfront and the receptor sites.

6.5 Barrow Borough Council Environmental Health Department: No objection in principle subject to conditions being imposed requiring a testing regime for ground contamination which has not previously been identified.

6.6 Environment Agency: having reviewed the documents submitted with the planning application. It is recommended that conditions be imposed with regards to ground levels being set no lower than 7.4m AOD and ensuring there is no risk of contamination from the development.

6.7 Natural England: No objection subject to appropriate mitigation being secured with regards to Japanese Knotweed, breeding and non-breeding birds, construction environmental management plan and reptile mitigation strategy being implemented.

6.8 Crime Prevention Officer: The pedestrian/cycleway should be as straight and direct as possible; choice of fence as this is susceptible to breaching.

6.9 CCC Resilience Unit: This site is situated in a part of the Dock network in Barrow and is covered by the provision of the Radiation (Emergency Preparedness and Public Information) 2001 Regulations. There are no objections to the proposed development based on the information provided but it should be noted that the...
proposed development is situated within the Detailed Emergency Planning Area of the site and straddle an area which have automatic counter measure arrangements in the event of an incident involving boats at Ramsden Dock Basin. Cumbria County Council, in liaison with the site operator and the Office for Nuclear Regulation, have certain special arrangements made for residents/business premises in this area and particular attention is paid to ensuring that people are aware of the appropriate action to take in the event of an incident at the site.

6.10 The application has been advertised in the local press and by site notice on the site. Neighbouring properties and the local county councillor were also notified. No representations have been received.

7.0 PLANNING ASSESSMENT

7.1 The main considerations of the proposed development include policy context, highways and transportation, ground contamination, historic environment, flood risk, nature conservation, landscape and visual impact, secure by design and other environmental considerations.

Policy Context

7.2 The proposed development has been considered against local and national local plan policies. Cumbria Mineral and Waste Local Plan Development Control Policies.  Policy DC1 – Traffic and Transport: requires development to be well related to the strategic road network, have potential for rail or sea and sustainable travel to work and minimise minerals and waste road miles.  Barrow Waterfront is accessed by the strategic road network and has port facilities in close proximity and provides opportunities for sustainable travel to work on foot, bike or public transport; Policy DC2 – General Criteria: requires development to consider noise, air quality and ground stability.  The proposed development would have a temporary minimal impact on noise, air quality and ground stability during the development phase and which would be acceptable or can be controlled by condition. Policy DC3 – Cumulative Environmental Impacts: requires development to consider impacts on local communities, habitats and species, vehicles and local amenity to be considered.  The proposed development has the potential for disturbance during the construction phases but this would be for a temporary period of time; Policy DC10 – Biodiversity and Geodiversity: requires developments to identify their likely impacts on and also their potential to enhance, restore or add to these resources.  The proposal is accompanied by a phase 1 habitat survey along with mitigation measures for the translocation of reptiles from the site; Policy DC10 – Flood Risk: requires development to be located outside areas at risk of flooding.  The application site is located on the dockside and flood risk consideration has been taken into account when designing the new development platforms.

7.3 Barrow Borough Council Local Plan 1996-2006 policies. Policy A1 – Local Employment Sites: requires the application site to generate employment opportunities for the area.  The proposal is designed to provide additional development platforms which would be available for future employment use; Policy E15 – Cycle Provision: requires provision for cyclists to be improved with dedicated cycle routes and paths.  The re-development of Barrow Waterfront has provided new cycle links to other parts of Barrow; Policy E17 – Improvements for Pedestrians: requires development to be accessible for all.  The proposed development would provide improved footpath links around to the area.
7.4 Barrow Port Area Action Plan Development Document Policy BP 23 – Waterfront Business Park identifies the site as a key component to Barrow Waterfront and providing a regionally significant employment site.

7.5 It is considered that the proposal complies in principle with the above development plan policies.

**Highways and Transportation**

7.6 It is proposed that 39,100 tonnes of material (18,500m²) would need to be imported to raise the site levels to above the predicted flood risk level. The material would be brought onto site 1,960 HGV’s (20 tonne capacity HGVs) over a 6 month period.

7.7 Access to the site would be along the A590 which consists of Walney Road, Bridge Road and onto Michaelson Road, Harding Rise and Dova Way. It is proposed to restrict HGV movements to off-peak periods of between 0900 to 1500 hours Monday to Thursday and 0900 to 1400 hours on Friday. The proposed hours of delivery of material would not conflict with peak transport/travel times which include people travelling to/from work and school runs.

7.8 Transport movements are proposed as:

- deliveries restricted to Monday to Saturday, thereby there will be 87 days for delivery of material
- deliveries would be restricted to off-peak period of 0900 to 1500, giving a 6 hour window Monday to Thursday
- deliveries on Fridays would be 0900 to 1400

With the proposed transport delivery restrictions this would entail approximately:

- 24 deliveries per day (48 movements)
- 6 deliveries per hour (12 movements/1 vehicles per 10 min period) Monday to Friday

7.9 The proposed development would have an impact on the local highway infrastructure over a short timescale and there would be some potential conflict with developments which are currently taking place within BAE Systems on Bridge Road and elsewhere in Barrow. However due to the proposed operating hours these would be outside peak times and which could be controlled by condition.

7.10 As part of the 2006 planning application (Ref: 6/06/9027) the majority of fill material was brought to the Waterfront Business Park by sea which restricted the number of HGV movements impacting on the amenities of the area and in particular the residents of Ramsden Dock Road. Since then a new access road has been constructed (Ref: 6/08/9010) to allow HGVs easy access to the Waterfront Business Park without impacting on the amenities of local residents. The new road is 10m wide and has footway and cycle lane.

7.11 It is proposed that 15/20 people would be employed on the creation of the new platforms. The workforce could increase vehicle movements by 30/40 return trips per day.

7.12 There are two main potential sources of granular material in the area that could
be used to create the development platforms; Goldmire Quarry, and Stainton Quarry located 5km and 8 km respectively north of the application site.

7.13 CCC Highways raise no objection to the development subject to conditions being imposed relating to HGV movements and the timing of such to prevent overlapping of the development of the platforms, access to the site, and access gates to open inwards away from the highway.

7.14 National Planning Policy Framework (NPPF) core objective is a presumption in favour of sustainable development which requires Local Planning Authorities to positively seek opportunities to meet the development needs for their area; all developments that generate significant amounts of traffic movement should be supported by a Transport Statement or Transport Assessment taking into account opportunities for sustainable transport modes, safe and accessible access to the site, improvements to the transport network and sustainable transport modes for the movement of goods and people.

7.12 Cumbria Minerals and Waste Local Plan (adopted 2009) Policy DC1 requires developments to be well located to strategic road network, potential for rail or sea transport and to minimise operational minerals and waste road miles. The Furness Peninsula is served by two main quarries Goldmire (5 miles north) and Stainton (8 miles north east) of the application site. Rail and sea transportation would not be viable due to the close proximity of these quarries, however road miles would be kept to a minimum.

7.13 Barrow-in-Furness Local Plan Policy A1 identifies the application site as a Local Employment site this is further enhanced in Barrow Port Area Action Plan (BPAAP) which identifies the proposed site as a major new business and employment location for Barrow.

7.14 Subject to the proposed conditions it is considered the proposed development complies with CMWLDF Policy DC1 – Traffic and Transport.

Ground Contamination

7.15 The application site historically is reclaimed land which formed part of the intertidal mud flats of Walney Channel and subsequently constructed into a dock system in the mid to late 1800’s. The application site formed part of the dock system which comprised a floating timber dock which was infilled in the 1970’s. The majority of the application site has had no previous industrial use and is currently under used port land with the exception of a narrow stip of former railway land to the north east of the site.

7.15 Ground and water contamination tests and reports have previously been carried out as part of previous planning applications for development of the proposed site (6/06/9027, 6/08/9010 and 6/15/9006). Mitigation measures were put in place as part of the planning permissions and which would continue for the duration of this re-development.

7.16 Existing and new boreholes have been monitored and results have shown that there appears to be a reduction in contaminants. However, soil sampling has identified high concentrations of petroleum hydrocarbons and PAHs including the presence of a black, viscous liquid. Further investigations would be required to identify the extent of the contamination which would be required to be remediated or removed from site and which can be controlled by condition. Consequently the recommendation is that the overall risks to groundwater on-
site and to Walney Channel for leaching of soils is managed as development proceeds by lower infiltration from increased hard standing cover or the interception of surface water, leading to a general improvement of water quality.

7.17 The Environment Agency has reviewed the ground contamination reports submitted in support of the planning application and have raised no objection. A condition is proposed to ensure that the any further risk of contamination from the site is contained and that any remediation measures are put in place to ensure that the contamination is properly dealt with.

7.18 Subject to such a condition the proposed development is considered to comply with CMWLDF Policy DC2 – General Criteria.

Historic Environment

7.19 A Heritage Statement was submitted with planning application 6/15/9007. This application is supported by an addendum Heritage Statement which assesses the historical impacts the remediation of the development platforms would have on Barrow Waterfront. The addendum has taken into account the three additional development platforms and considers the impacts of development on these areas. Whilst there are no designated assets affecting the three development there are Historic Environment Records identified (HER’s) within close proximity to the platforms. The County Archaeologist raises no objection.

7.20 The proposed development is therefore considered to comply with CMWLDF Policy DC12 – Historical Environment.

Flood Risk

7.20 The site is located on the southern part of Barrow Island which is manmade and forms part of the former dock system for Barrow. The application site forms part of the former timber dock which was infilled in the 1970’s. The majority of the application site lies within Flood Zone 1 land having a 1:1000 year annual probability of river or sea flooding. The east of the site is located within Flood Zone 2 land as having a possibility of 1:100 and 1:1000 year probability of flooding and Flood Zone 3 probability of 1:100 or greater probability of river flooding or 1:200 or greater of flooding by sea.

7.21 Currently sea defences are in the form of three structures; Cavendish Dock embankment; Ramsden Dock caisson lock; and the vertical sea walls around Barrow Island. These three elements provide the principle structures for protecting Barrow Island from tidal inundation and sea defences. The flood defences at these locations stand at 7.1 m AOD.

7.22 It is proposed to raise the level of the application site to 7.4 m AOD to prevent any risk of tidal flooding.

7.23 The proposed raising of the land level would produce a viable drainage design. Meaning the site would be slightly elevated eliminating any risk of ponding on or around the site. As the flow of water would slope southwards towards the adjacent waterbodies the site is not considered to be at high risk (as defined in para 7.20 flood zone 2 and 3) of actual flooding.

7.24 The proposed development is therefore considered to comply with CMWLDF Policy DC13 – Flood risk.
Nature Conservation

7.25 Development Control Policies 2009-2020 (adopted April 2009): CMWDF Development Control Policy 10 (Biodiversity and Geodiversity) advises that proposals for new Minerals and Waste Developments that would have impacts on locally important biodiversity and geological conservation assets, as defined by the Core Strategy will be required to identify their likely impacts on, and also their potential to enhance, restore or add to these resources and to functional ecological and green infrastructure networks. Development must demonstrate the need for, and benefits of the development and the reasons for locating the development in its proposed location, and demonstrate appropriate measures to mitigate any adverse effects (direct, indirect, cumulative). Where impacts cannot be avoided or mitigated, appropriate compensatory measures should be identified and secured and must be compatible with the characteristics and features within Cumbria.

7.26 Paragraph 118 of the NPPF states: “when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site’s notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it a special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest.”

7.27 The site lies adjacent to South Walney and Piel Channel Flats SSSI, an area which forms part of Morecambe Bay Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site. It is also within 1 km of the Duddon Estuary SSSI, SPA and Ramsar site. A large number of slow worms and common lizards are present on the site and in the locality, and the site is known to support Linnet and Skylark which are protected under the EC Birds Directive, the Wildlife and Countryside Act and both are Biodiversity Action Plan species.

7.28 The site has an open mosaic habitat as previously developed land; this is a UK Biodiversity Habitat of Principal Importance comprising of buildings, scrub, ruderal vegetation, improved neutral grassland, bracken dune scrub and sand dunes. The site also has protected species under the Wildlife and Countryside Act 1981 (as amended) present on site including slow worms, common lizard and nesting birds. There are also UK Biodiversity Species of Principal Importance: dingy skipper, small heath and cinnabar moth. The site also supports foraging bats.

7.29 Since 2006 Barrow Waterfront has been closely monitored for protected species by the appointed consultants and Natural England. Some of the protected species have been successfully relocated to the designated receptor sites of the Borough Dog Kennels, Walney and Barrow Slag Bank north.
7.30 It has been identified that there are still some protected species on site which would need to be translocated to receptor sites. Five additional receptor sites have been identified Barrow Slag Bank south, Biggar Bank, Furness Golf Course, Sandscale Park and Duncander Bank:

- **Barrow Slag Bank south**: The habitat looks very good and is considered to be ideal for common reptile translocation.
- **Biggar Bank**: All require considerable work to get the sites ready for translocation of reptile
- **Furness Golf Course**: All require considerable work to get the sites ready for translocation of reptile
- **Sandscale Park**: All require considerable work to get the sites ready for translocation of reptile
- **Duncander Bank**: No details of the habitat or condition of the site have been submitted. It is recommended that the site is removed from the mitigation programme.

7.31 A preliminary ecological appraisal and national classification report was carried out for the site in June 2015. An addendum to this was undertaken in March 2017. The previous planning applications in 2006 and 2008 were supported by substantial ecological reports. A condition was imposed on planning permission 6/08/9010 which required 5 years of monitoring of protected species to be undertaken; this monitoring period ceased in 2014.

7.32 Enhancements have been undertaken to Barrow Waterfront development which have included the creation of a greenway which links up to the existing site, footpaths and the creation of small banks, log banks to provide habitat for wildlife, and the creation of a wildlife corridor to the south of the site.

7.33 Extensive works have been undertaken on Barrow Waterfront since 2006 which has seen reptile capture consisting of trapping and mats, introduction of reptile fencing to prevent reptiles re-entering prepared development platforms, creation of enhanced habitat areas and relocation of wildlife corridor. The site still has a number of reptiles which are required to be removed to facilitate the construction of the proposed new development platforms.

7.34 Enhanced habitat areas are also proposed around Barrow Waterfront site. Part of the development includes the creation of a new reptile habitat on the former St Andrews Engineering Site and former garages which is to north of the site these buildings have recently been demolished and the site has been prepared as reptile habitat to compensate against the loss of habitat of plots 1, 2 and 3. These were considered under planning applications 6/17/9001 and 6/17/9006.

7.35 Japanese knotweed is present to the rear of plot 2; this must be disposed of this to a licenced landfill site. This is a noxious weed for which every care should be taken when removing and disposing of to ensure it does not spread.

7.36 Barrow Waterfront has undergone a significant transformation over the last 11 years with ecology playing a major role in particular the capture, translocation of reptiles and receptor sites. Areas of Barrow Waterfront have undergone transformation of enhancements to be suitable for reptile habitation to allow some of the reptiles to be retained and resited within Barrow Waterfront. However a percentage would also be required to be translocated to other sites as identified in the Reptile Mitigation Strategy. The translocation sites have been carefully selected and where necessary enhancements have been carried out to ensure the areas are suitable.
7.37 The CCC Ecologist is in overall agreement with the findings of the reports but is of the view that some additional works are required to bring the translocation sites to an acceptable standard. A condition is proposed to ensure that the works to the translocation sites are carried out to a satisfactory standard along with a 10 year management plan for habitat retention and compliance with the Wildlife and Countryside Act 1981.

7.38 It is considered that the proposed development would comply with CMWLDF Policy DC10 - Biodiversity and Geodiversity subject to such appropriately worded conditions being imposed to ensure a Habitat Management and Maintenance Plan is drawn up. Such plan to ensure that 10 year management of the site is provided for.

**Unexploded Ordnance Survey**

7.39 The application has been accompanied with an Unexploded Ordnance Survey (UXO) report for the former timber pond which forms part of Plots 2 and 3. The report confirms that Plot 1 and 2 have a low risk level and Plot 3 has a medium to high risk level. The report has recommended that suitable mitigation would be required whilst developing the additional plots. A condition is proposed requiring compliance with the UXO report.

**Environmental Impacts**

7.40 Noise and Dust: Due to the nature of the proposed development there would be potential for noise and dust to arise from the deposit and spreading of granular material on the application site. Cumbria Minerals and Waste Development Framework Core Strategy and Development Control Policies 2009-2020 (adopted April 2009) Policies DC 4 Noise and DC 5 Dust require schemes to be adequately mitigated to ensure that noise and dust are not an issue to nearby receptors or users of adjacent sites.

7.41 Planning Policy Guidance ID 30 clearly identifies the need to ensure noise does not become an issue during operational development. Conditions are proposed to control noise and dust from the site during construction operations.

7.42 Landscape and Visual Impact: The application site currently consists of industrial buildings, allotment gardens with adhoc buildings and fencing and developed land. The proposed remediation works would not have a significant landscape and visual impact on the area due to the low lying nature of the land and the existing operations which are already taking place. The proposed works would be an enhancement to the area once completed.

7.43 Mud on the highway: There is a potential for mud on the highway being an issue during construction operations. As part of Traffic Management Plan details are required to be submitted identifying how any tracking out of mud would be dealt with during construction process.

**Erection of Security Fence**

7.44 It is proposed to erect a 2.4m high palisade security fence to the entire site. There are existing palisade fences to the allotments and more recently to the BAE Systems development. The Crime Prevention Officer has raised concern with regards to the design of the fence as this is susceptible to breaching. The principle of palisade fencing in the area has already been accepted on the
allotments, BAE System and other parts of Barrow Island. Thereby continuing with palisade fencing would be in keeping with the context of the area and is considered acceptable.

Creation of new Pedestrian/Cycle Path

7.45 A new pedestrian/cycle path is proposed to the development which would link Barrow Waterfront to residential properties on Barrow Island. As part of planning permission 6/06/9027 pedestrian/cycle path was included and the new path would connect to the existing path and link onto Cavendish Park Playing Fields which is to the east of Barrow Waterfront.

New Access to UU Pumping Station

7.46 United Utilities have a pumping station on Plot 1 currently access to the pumping station is from Ramsden Dock Road which formed the original access to Barrow Waterfront site. A new designated access is proposed from Harding Rise which would see the removal of HGVs from the residential areas of Barrow Island. CCC Highways has raised no objection to the new access onto Harding Rise.

Human Rights:

7.47 Given the nature and purpose of the proposed development no Convention Rights as set out in the Human Rights Act 1998 would be affected.

Conclusion

7.48 The development of the three additional development platforms would further enhance Barrow Waterfront Business Park and complete the site as a premium business park for the Furness area. Development land in Barrow is in short supply and the creation of three additional platforms would provide much needed opportunities for businesses in the area.

7.49 Vehicular access to Barrow Waterfront Business Park has been significantly improved with opening of Harding Rise and Dova Way, which has removed HGVs/vehicles from the residential streets of Barrow Island.

7.50 Ecology and biodiversity are the main issue with the development and whilst substantial works have been undertaken to Barrow Waterfront previously, further enhancement works are still required to ensure the application sites and receptor sites are designed and enhanced to the best possible standard. Details have been submitted and additional mitigation and enhancements are still required to prevent the development platforms being delayed further an appropriately worded condition would be imposed require outstanding details to be adequately considered.

7.51 It is considered that the proposed development is in accordance with the policies of the development plan and that there are no material considerations that indicate the decision should be made otherwise than in accordance with the policies of the development plan. It is therefore recommended that planning permission be granted subject to the conditions set out in Appendix 1 to this report.

Mrs Jayne Petersen MA RTPI
Planning Officer
Tel: 01539 713549,
PROPOSED PLANNING CONDITIONS

TIME LIMIT FOR IMPLEMENTATION OF PERMISSION

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

   Reason: As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in accordance with the following:
   a. The submitted Application Form – 30 March 2017
   b. Planning Statement (including Design and Access) – March 2017
   c. Barrow-in-Furness Waterfront Business Park Reclamation – March 2017
   d. Barrow Waterfront development – UXO Survey of former timber pond
   e. Unexploded Ordnance Desk Study – 21 February 2017
   f. Transport Assessment Addendum – March 2017
   g. Reptile Mitigation Strategy (Addendum) – 30 March 2017
   h. Additional Development Platform – Plot 1 Contamination Report – 28 March 2017
   i. Heritage Statement Addendum – February 2017
   j. Addendum to Flood Risk Assessment – March 2017 (CS077918 Ver 1)
   k. The details or schemes approved in relation to conditions attached to this permission.
   l. Drawing Nos:
      - BWF-CAP-07-GEN-DR-C-0011 Rev P01
      - BWF-CAP-07-GEN-DR-C-0010 Rev P01
      - BWF-CAP-07-GEN-DR-Z-0002 Rev P01

   Reason: To avoid confusion as to what comprises the approved scheme and ensure the development is carried out to an approved appropriate standard.

3. Written notification of the date of commencement of the development shall be sent to the County Planning Authority within 7 days of such commencement.

   Reason: To enable the County Planning Authority to monitor the development.

Hours of Working

4. No works shall be carried out or fixed or mobile plant operated, outside the hours 0700 to 1900 hours Mondays to Fridays and 0700 to 1300 hours on Saturdays.

   No works shall be carried out or fixed or mobile plant operated on Sundays or Bank Holidays.

   Reason: To ensure no construction activity, take place outside normal working hours which would have an unacceptable impact upon the amenity of local residents.

5. Material for the land raising of the site shall only be delivered between the hours
of 0900 to 1500 Monday to Thursday, 0900 to 1400 on Friday and 0900 to 1300 on Saturday and no material shall be delivered on Sundays or Bank Holidays.

*Reason:* To ensure no construction activity, takes place outside normal working hours which would have an unacceptable impact upon the amenity of local residents.

**Contamination**

6. In the event that contamination is found at any time when carrying out the approved development, that was not previously identified, it must be reported immediately to the County Planning Authority. Development on the part of the site affected must be halted and Field Investigations shall be carried out. Where required by the County Planning Authority, remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These shall be implemented prior to occupation of the development.

*Reason:* To ensure that the risks to human health and the environment from on site contamination is minimised and conforms with Policy DC3 of the Cumbria MWDF Generic Development Control Policies.

7. No soil material or aggregate shall be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development. A suitable methodology for testing the materials should be submitted to and approved in writing by the County Planning Authority prior to the material being imported onto site. The methodology shall include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out as per the agreed methodology with verification of its completion submitted to and approved in writing by the County Planning Authority.

*Reason:* To ensure that the risks to human health and the environment from on site contamination is minimised and conforms with Policy DC3 of the Cumbria MWDF Generic Development Control Policies.

8. There shall be no soakaway drainage to ground.

*Reason:* To ensure that the development does not contribute to, or adversely affect, unacceptable levels of water pollution from previously unidentified contamination sources and conforms with Policy DC3 of the Cumbria MWDF Generic Development Control Policies.

**Control of Noise**

9. All plant, machinery and vehicles on site shall be fitted with silencers and maintained in accordance with the manufacturers’ recommendations.

*Reason:* To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and does not constitute a nuisance outside the boundaries of the site and conforms with Policy DC3 of the Cumbria MWDF Generic Development Control Policies.

**Control of Dust**

10. The developer shall maintain on site at all times a water bowser or other dust
suppression systems, together with an adequate supply, of water and during periods of dry weather shall spray the access road, working areas and plant area with water to suppress dust in order that it does not constitute a nuisance outside the site.

Reason: To safeguard the amenity of people in the locality and adjacent property from the effect of dust generated by construction activity and conforms with Policy DC3 of the Cumbria MWDF Generic Development Control Policies.

Storage of Fuels

11. No fuels, oils, chemicals or other potentially polluting liquids shall be stored on the site except within tanks or other containers sited on impervious bases and surrounded by impervious bund walls that are capable of containing 110% of the volume of the all of the tanks or containers sited within the bund. All fill and draw valves and sight glasses shall be located within the bund and all fill and draw valves must be set to discharge downwards into the bund.

Reason: To avoid the pollution of any watercourse or groundwater resource. Protection of Watercourses and conforms with Policy DC3 of the Cumbria MWDF Generic Development Control Policies.

12. Throughout the period of construction and operation provision shall be made for the collection, treatment and disposal of all surface water entering or arising on the development site.

Reason: To ensure there shall be no pollution of watercourses or adverse impacts on the wildlife habitats of the various water bodies within, or adjacent to, the application site and to minimise the risk of pollution to water courses or groundwater resource and conforms with Policy DC2 of the Cumbria MWDF Generic Development Control Policies.

Construction Management Plan

13. No development shall take place until a Construction Management Scheme has be submitted to and approved in writing by the County Planning Authority. The scheme shall include the following details: HGV routing plan; construction traffic signage; drivers manual; wheel washing facilities or other measures to ensure the highway is maintained free of mud & debris, construction compound and parking, security fencing during construction works, site waste management plan, sufficient oil sorbent material shall be available on site to cope with a loss greater than to the maximum volume of fuel and oil contained by the largest item of plant in use on site at all times. Site staff will be made aware of the locations of spill kits and booms.

The approved scheme shall be implemented in full

Reason: In order to protect the safety of vehicular, animal and pedestrian traffic along the highway and conforms with Policy DC1 of the Cumbria MWDF Generic Development Control Policies.

Landscaping

14. All works set out on the Landscaping plan shall be completed by the end of the first planting and seeding seasons following the first occupation of Ramsden
Business Park. Any trees or plants which within a period of five years from the completion of the development die, or become seriously damaged or diseased shall be replaced in the next available planting season with others of similar size and species.

*Reason: To safeguard the visual amenities of the area.*

**Flood Risk**

15. The development hereby permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:

1. Finished levels are set no lower than 7.6 m above Ordnance Datum (AOD).

*Reason: To ensure safe access and egress from and to the site and to reduce flood risk and make the proposed building more resilient to the effects of climate change on sea levels and conforms with Policy DC13 of the Cumbria MWDF Generic Development Control Policies.*

16. Prior to the commencement of development no development shall commence until an assessment has been made and agreed in writing with the County Planning Authority of where the volume of surface water that would occupy the existing site during the design event will be displaced to post construction. If this displaced volume of surface water would increase flood risk elsewhere then compensatory storage must be provided.

*Reason: To safeguard against negative impact outside the development boundary to people and property and conforms with Policies DC13 of the Cumbria MWDF Generic Development Control Policies.*

**Biodiversity**

17. Within 3 months of the date of this permission the following details shall be submitted to the County Planning Authority for approval in writing:

(a) A 10 year management plan for on-site habitat retention and, habitat creation areas along with timescales and monitoring provision; The management plan should include suitable plans showing on-site habitat retention and habitat creation areas to ensure a long-term viable reptile population at Barrow Waterfront, including details of habitat connectivity of these areas);

(b) A 10 year management plan for receptor site habitat creation and management detailing prior survey results for previously used receptor sites as part of the Barrow Waterfront development. The management plan should also detail actions that will be undertaken to bring any new receptor sites into suitable condition prior to first release of reptiles arising from future site clearance. Specific details will be required for each site to demonstrate interpretation of existing habitat suitability (along with photographs) and areas (in ha.) along with the scale, size and nature of enhancement measures proposed. The Management Plan should also detail the Timescales for preparation and management as well as monitoring of all of the receptor sites;
The approved management plan shall thereafter be implemented in full.

Reason: The two reptile species are UK protected and their populations on the site are significant at a County level. Appropriate mitigation measures are required to maintain some of the reptile population on the site in tandem with the redevelopment of the site and conforms with Policy DC10 of the Cumbria MWDF Generic Development Control Policies.

18. During periods of cold weather local weather stations shall be monitored and logged. In the event that on seven consecutive days daytime temperatures remain below 0°C works within 10m of Walney Channel shall be suspended. Works shall only resume after three consecutive days on which temperatures remain above 0°C.

Reason: To ensure that the development does not cause disturbance and stress to feeding waders and wildfowl during periods of severe weather and conforms with Policy DC10 of the Cumbria MWDF Generic Development Control Policies.

Traffic and Transportation

19. There shall be no vehicular access to or egress from the site other than via the approved access, unless otherwise agreed with the County Planning Authority.

Reason: To avoid vehicles entering or leaving the site by an unsatisfactory access or route and conforms with Policy DC1 of the Cumbria MWDF Generic Development Control Policies.

20. Access gates if provided shall be hung to open inwards only.

Reason: In the interest of highway safety and to conforms with Policy DC1 of the Cumbria MWDF Generic Development Control Policies.

21. The total number of laden heavy goods vehicles leaving the site shall not exceed 60 per day. A record of all laden heavy goods vehicles leaving the site each day shall be maintained by the operator at all times and access to this record shall be afforded to the County Planning Authority.

Reason: To keep to acceptable levels of impact of HGV traffic on the amenity of local residents and other highway users and conforms with Policy DC1 of the Cumbria MWDF Generic Development Control Policies.

Unexploded Ordnance

22. The development hereby permitted shall only be carried out in accordance with the approved Unexploded Ordnance Desk Study and UXO Survey of Former Timber Pond report dated 21 February 2017.

Reason: In order to ensure that the risks to human health and the environment from Unexploded Ordnance or contamination is minimised.

Definitions

HGV: A vehicle of more than 7.5 tonnes gross weight.
**Date of Commencement:** The date that the applicant confirms the commencement of the development in accordance with Condition 3 to this permission

**Notes**

The grant of planning permission does not remove the need to obtain the relevant statutory consents/licences from the Environment Agency.

Wildlife and Countryside Act 1981 provides for the protection of sites and species of national importance for nature conservation. The level of protection depends on which Schedule of the Act the species is listed on. Species protection includes prohibition of some of all of: killing, injuring, disturbing or taking, and also protection of breeding and sheltering places. Schedule 9 (with 2010 amendments) lists invasive non-native species, for which it is an offence to not adequately control and this cause to grow in the wild.

Subscription to the Environment Agency’s Warning Service, particularly with some of the development site located in Flood Zones 2 and 3 as well as the egress routes from Barrow Island.
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Application for approval of details reserved by planning conditions

Permission No: 4/16/9014

Conditions: No. 1, 2, 5, 31, 33, 34 and 36

Location: Campus Whitehaven, Red Lonning, Whitehaven, CA28 8UG

Proposal: Construction of new school buildings for St Benedicts and Mayfield schools with associated sports pitches/facilities, car parking, landscaping, new access onto Moresby Road and Red Lonning. Service access road onto U4008

 Applicant: Cumbria County Council

1.1 RECOMMENDATION

1.2 That the information submitted for the purposes of conditions 1, 33 and 36 to planning permission 4/16/9014 be noted, the details submitted for the purposes of condition 2 be approved and the requirements of the condition discharged and that the pre-commencement elements of conditions 5 and 34 to planning permission 4/16/9014 be discharged.

1.3 Condition 31 relates to Archaeology and will be reported verbally to Members.

2.0 BACKGROUND / OVERVIEW

2.1 Planning permission for the development of new school buildings for St Benedicts and Mayfield schools with associated sports pitches/facilities, car parking, landscaping, new access onto Moresby Road and Red Lonning in Whithaven was granted in February 2017 subject to conditions (ref. 4/16/9014). An application has been submitted providing confirmation of commencement and seeking approval of details/schemes required to discharge pre-commencement planning conditions attached to the planning permission.

2.1 The application and subsequent details/schemes have been submitted by the Director of Economy and Highways under the provisions of Regulation 3 of the Town and Country Planning General Regulations 1992 (the Regulations). Regulation 3 enables the Council to make such planning applications, as long as the development is to be carried out by (or on behalf of) the Council. The development may be on land in the Council's ownership or on any other land.

2.2 In these circumstances, Regulation 10 of the Regulation states that no application for planning permission for development to which regulation 3...
applies may be determined by a committee or sub-committee of the interested planning authority concerned if that committee or sub-committee is responsible (wholly or partly) for the management of the land or buildings to which the application relates; or by an officer of the interested planning authority concerned if his/her responsibilities include any aspect of the management of any land or buildings to which the application relates.

2.3 Consequently details submitted for the purposes of conditions, as in this case, must be determined by the Development Control and Regulation Committee.

<table>
<thead>
<tr>
<th>Condition</th>
<th>Relating to</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Time Limit for Implementation of Permission</td>
</tr>
<tr>
<td>2</td>
<td>Notification of commencement of development</td>
</tr>
<tr>
<td>5</td>
<td>Construction Method Statement</td>
</tr>
<tr>
<td>31</td>
<td>Archaeology</td>
</tr>
<tr>
<td>33</td>
<td>Retention of trees</td>
</tr>
<tr>
<td>34</td>
<td>Construction of Exclusion Zone</td>
</tr>
<tr>
<td>36</td>
<td>Japanese knotweed</td>
</tr>
</tbody>
</table>

2.4 The full text of these planning conditions and assessment of the submissions are set out in the assessment section of this report

3.0 PLANNING POLICY

3.1 The proposed development was assessed against:

- National Planning Policy Framework (March 2012) and Planning Practice Guidance (PPG)

4.0 CONSULTATION RESPONSES

4.1 Copeland Borough Council Planning Department: no response received.

4.2 CCC Highways and Lead Local Flood Authority: confirm the details submitted to discharge condition 5 are acceptable.

4.3 CCC Ecology: No objection to the details submitted.

4.4 CCC Archaeology: The geophysical survey shows it is unlikely archaeological remains would be disturbed during the course of development. No further archaeological work would be required. It is considered the requirements of condition 31 have been fulfilled.

4.5 Crime Prevention: No objection.

4.6 Northern Gas: No objection. However, there may be apparatus in the area that may be at risk during construction operations.
5.0 PLANNING ASSESSMENT

5.1 The proposed submissions of details are set out as follows:

Condition 1 (Time Limit for Implementation of Permission)

4.2 Condition 1: The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

4.3 It is noted that the time limit for implementation of permission has been undertaken within the permitted three year expiry date.

Condition 2 (Notification of commencement of development)

4.4 Condition 2: Notification of the date of commencement of the development shall be made in writing to the County Planning Authority within 7 days of such commencement.

5.4 Development of the site commenced on 8 May 2017. The requirement of the condition has therefore been complied with and can be discharged.

Condition 5 (Construction Method Statement)

5.5 Condition 5: No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the County Planning Authority. The Plan shall include details of the following:

a) Contractors compound/parking provision including a plan reserving adequate land for the parking of vehicles engaged in construction operations, including vehicular access;

b) The location and design of wheel cleaning facilities including the provision for cleaning of the site entrances and adjacent highway to prevent debris from the site being deposited by vehicle wheels upon the public highway;

c) Management of traffic within and accessing the site;

d) Means of receiving construction material;

e) Identification of potential sources and measures to control;
   i. Noise
   ii. Dust
   iii. Vibration

f) The storage of fuels and soils during construction phase;

g) A scheme for recycling/disposing of waste resulting from construction works;

h) Details of temporary lighting during construction;

i) Access gates shall be hung to open away from the public highway, no less than 10m from the carriageway edge and shall incorporate visibility splays;

j) Details of temporary construction/warning signage;

k) Provision for facilities of manoeuvring, loading and unloading of vehicles;

l) Construction vehicle routing.
The construction phase of the development shall be carried out in accordance with the approved Construction Management Plan.

5.6 CCC Highways has confirmed the details submitted for the purposes of the condition 5 are acceptable. The pre-commencement requirements of the condition have therefore been met and can be discharged. The developer is required to carry out the development in accordance with the approved Construction Management Plan for the condition to be discharged in full.

**Condition 31 (Archaeology)**

5.7 Condition 31: No development shall commence within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the County Planning Authority. The written scheme shall include the following:

a) An archaeological evaluation;
b) An archaeological recording programme the scope of which will be dependent upon the results of the evaluation;

Where significant archaeological remains are revealed by the programme of archaeological work, as post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the County Planning Authority, completion of an archive report, and submission of the results for publication in a suitable journal.

5.7 CCC Archaeologist has been consulted on the additional information and have confirmed that the geophysical survey shows that it is unlikely any archaeological remains would be disturbed during the course of development. It is considered that the requirements of condition 31 have been fulfilled.

**Condition 33 (Retention of trees)**

5.9 Condition 33: No trees, bushes or hedges within the development site shall be removed, lowered or pruned during the bird nesting season between 1 March and 31 July inclusive. If areas cannot be cleared outside this time, they should be checked for breeding birds in accordance with Natural England’s Guidance and, if appropriate, an exclusion zone set up around any vegetation to be protected. No work shall be undertaken within the exclusion zone until birds and any dependant young have vacated the area.

5.10 Works involving the removal of trees and bushes on the site were undertaken in February 2017 and completed before the end of February 2017 prior to the bird nesting season. The requirements of the condition have therefore been complied with.

**Condition 34 (Construction of Exclusion Zone)**

5.11 Condition 34: No development shall commence until the Construction Exclusion Zone for the protection of trees to be retained on site has been put
in place as per the Wates Group – St Benedict’s Campus – Arboricultural Impact Assessment – dated October 2016.

5.12 The Construction Exclusion Zone for the protection of trees has been put in place and will be retained for the duration of construction works. The pre-commencement element of this condition can therefore be discharged.

**Condition 36 (Japanese knotweed)**

5.13 Condition 36: All site clearance and removal of the invasive alien Japanese knotweed from the site must take place in accordance with Section 5.2 of the invasive alien plant WYG report 'Invasive Plant Species Report' (October 2016).

5.14 CCC Ecologist has been consulted on the details submitted and has raised no objection and the details submitted are noted for information purposes.

**Approved Documents**

5.15 Approved Documents:

- Application form dated 13 April 2017
- Covering letter dated 13 April 2017
- 5 year warranty certificate dated 12 April 2017
- Completion Survey dated 13 April 2017 – Japanese Knotweed
- Construction Management Plan : Campus Whitehaven

**6.0 CONCLUSION**

6.1 The submitted schemes/details submitted for the purposes of conditions 1, 33 and 36 of planning permission 4/16/9014 are noted, the details submitted for the purposes of condition 2 be approved and acceptable and the requirements of the condition discharged and that the pre-commencement elements of conditions 5 and 34 to planning permission 4/16/9014 be discharged.

Dominic Donnini  
Corporate Director Economy and Highways

**Contact:** Mrs Jayne Petersen, Kendal,

**Background Papers:** Planning Application File Reference No. 4/16/9014

**Electoral Division Identification:** Hillcrest and Hensingham – Councillor Christine Warriner
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### DEVELOPMENT CONTROL & REGULATION COMMITTEE

#### Meeting Date: 18 July 2017

From: Corporate Director - Economy and Highways

### APPLICATIONS DETERMINED UNDER DELEGATED POWERS

**NOTE:** These are applications/consultations that have been recently determined by the Assistant Director of Environment and Regulatory Services in accordance with the scheme of delegation.

- Case Officer Contact Details are provided in the Footnote at the end/rear of the Agenda.

<table>
<thead>
<tr>
<th>Authority Area/Ref. No. (Web-link)</th>
<th>Proposal / Site Location / (Case Officer)</th>
<th>Date Valid Application Received</th>
<th>Decision &amp; Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carlisle 1/17/9004</td>
<td>Extension to School to Provide Additional Classroom, Toilets, Cloakroom Area and Covered Areas Externally. Ithrington Village School, Ithrington, Carlisle, CA6 4NJ (EP)</td>
<td>15.02.17</td>
<td>Granted 29.03.17</td>
</tr>
<tr>
<td>Caldew Lea 1/17/9005</td>
<td>Change of Use of former Caretakers’ House (No. 14 Head Street) from a residential dwelling (Class C3) to a school building (Class D1) Caldew Lea Primary School, Ashley Street, Carlisle, CA2 7BE (EP)</td>
<td>16.02.17</td>
<td>Granted 29.03.17</td>
</tr>
<tr>
<td>Allerdale 2/17/9008</td>
<td>Erection of 2 Kiosk Buildings. Cockermouth Wastewater Treatment Works (WwTW), Low Road (C2068), Cockermouth, CA13 0HH (EP)</td>
<td>04.05.17</td>
<td>Granted 08.06.17</td>
</tr>
<tr>
<td>Eden 3/17/9004</td>
<td>To erect a 9m x 5m single slope roof sectional timber building to be used as a classroom and office. Skelton Primary School, Skelton, Penrith, CA11 9SE (SP)</td>
<td>02.03.17</td>
<td>Granted 14.06.17</td>
</tr>
<tr>
<td>Kirkby Stephen 3/17/9005</td>
<td>Erection of single storey classroom extension and associated alterations to the fencing. Kirkby Stephen Primary School, Nateby Road, Kirkby Stephen, CA17 4AE (EP)</td>
<td>04.05.17</td>
<td>Granted 02.06.17</td>
</tr>
<tr>
<td>Copeland 4/17/9005</td>
<td>Temporary Siting of a Portable Building for 5 years and associated compound layout including parking bays and storage facilities. Low Level Waste Repository, Drigg, Seascale, CA19 1XL (JP)</td>
<td>16.02.17</td>
<td>Granted 13.04.17</td>
</tr>
<tr>
<td>South Lakeland</td>
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<tr>
<td>Authority Area/Ref. No. (Web-link)</td>
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<tr>
<td>5/17/9001 Miller and Sons</td>
<td>Change of Use to a Scrap Yard and Tyre Repair and Trailer Garage; and Erection of a building and ancillary development. Cross Lane Garage, Cross Lane, Ulverston, LA12 9DQ (EP)</td>
<td>06.02.17</td>
<td>Granted 05.05.17</td>
</tr>
<tr>
<td>5/17/9002 Miller and Sons</td>
<td>Dismantling/removal of steel portal framed building and demolition of workshops and garages Land off Back Lane &amp; Church Walk, Ulverston (EP)</td>
<td>06.02.17</td>
<td>Granted 05.05.17</td>
</tr>
<tr>
<td>5/17/9004 Cumbria Fire &amp; Rescue Service</td>
<td>Vary Condition 1 of Planning Permission 5/14/9004 to allow retention of the temporary portacabin building up to 30 September 2018 Fire Station, The Ellers, Ulverston, LA12 0AB (EP)</td>
<td>15.02.17</td>
<td>Granted 06.04.17</td>
</tr>
<tr>
<td>5/17/9005 Holme Community School</td>
<td>Extension to Existing Classroom outbuilding to provide additional teaching space Holme Community School, North Road, Holme, Carnforth, LA61QA (EP)</td>
<td>23.02.17</td>
<td>Granted 20.06.17</td>
</tr>
<tr>
<td>5/17/9006 Cumbria County Council Holme Community School</td>
<td>Listed Building Consent application for demolition of historic pigsty and part of boundary wall. Wath Sutton Farm, Crooklands, Milnthorpe, LA7 7NU (EP)</td>
<td>21.04.17</td>
<td>Granted 02.06.17</td>
</tr>
<tr>
<td>5/17/9007 United Utilities Plc</td>
<td>Variation of Condition 1 of Planning Permission 5/16/9007 to extend use of temporary outfall to 31/10/18 Kendal Wastewater Treatment Works, Wattsfield Road, Kendal, LA9 5JN (DH)</td>
<td>12.05.17</td>
<td>Granted 05.06.17</td>
</tr>
<tr>
<td><strong>Barrow</strong></td>
<td></td>
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</tr>
<tr>
<td>6/17/9001 Capita Property and Infrastructure</td>
<td>Prior notification to demolish former St Andrews Engineering building and site clearance. St Andrews Engineering, St Andrews Street, Barrow-in-Furness, LA12 2SS (JP)</td>
<td>20.02.17</td>
<td>Prior Approval not Required 06.03.17</td>
</tr>
<tr>
<td>6/17/9002 Harry Barker Properties Ltd</td>
<td>Creation of a 130 metre length of access road. Greenscoe Quarry, Greenscoe, Askam-in-Furness, (EP)</td>
<td>27.01.17</td>
<td>Granted 05.04.17</td>
</tr>
<tr>
<td>6/17/9006 Capita</td>
<td>Prior notification to demolish former garages and site clearance. Garages to the South West of St Andrews Street, Barrow-in-Furness (JP)</td>
<td>04.04.17</td>
<td>Granted 05.05.17</td>
</tr>
</tbody>
</table>
**APPLICATIONS PROPOSED TO BE DETERMINED UNDER DELEGATED POWERS**

**NOTE:** These are applications that have been submitted to the County Council but are not yet ready/appropriate for determination under delegated powers and/or have been recently withdrawn or determined as invalid, or not requiring planning permission, etc. - **Case Officer**  
**Contact Details** are provided in the Footnote at the end/rear of the Agenda.

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</thead>
<tbody>
<tr>
<td>Carlisle 1/17/9009 United Utilities Water Ltd</td>
<td>Construction of new Outfall Structure Land to the east of Dalston Wastewater Treatment Works, Dalston, Carlisle, CA5 7JU (EP)</td>
<td>16.06.17</td>
</tr>
<tr>
<td>Allerdale 2/17/9004 Thomas Armstrong (Holdings) Ltd</td>
<td>Application to regularise working outside existing planning permission boundary and associated restoration work Overby Quarry, Aikshaw, Aspatria (DH)</td>
<td>22.03.17</td>
</tr>
<tr>
<td>Eden 3/17/9002 Trustees Appleby Castle Grouse Moors</td>
<td>Extraction of stone from 5 borrow pits and use of material for the surfacing of a moorland access track and an associated parking and turning areas. Dolphin Seat, Winton, Kirkby Stephen (EP)</td>
<td>16.01.17 Further and Revised Information Submitted 10.05.17 Re-consultation issued 19.06.17</td>
</tr>
<tr>
<td>3/17/9006 JE Bellas &amp; Son</td>
<td>Variation of Condition 1 of 3/12/9005 to extend the timescale for inert landfilling to 20 December 2018 Rose Garth Inert Landfill Site, Long Marton, Appleby-in-Westmorland, CA16 6BU (EP)</td>
<td>05.05.17</td>
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<tr>
<td>Authority Area/Ref. No. (Web-link)</td>
<td>Proposal / Site Location / (Case Officer)</td>
<td>Date Valid Application Received</td>
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</tr>
<tr>
<td>3/17/9007</td>
<td>Variation of Conditions 2 and 17 of Planning Permission 3/99/9011 to extend the timescale for mineral working to 10 January 2035 and amend the approved documents to revise the scheme for working and restoration. Red Rock Canyon Quarry, Bowscar, Penrith (EP)</td>
<td>02.06.17</td>
</tr>
<tr>
<td>3/17/9008</td>
<td>Deepening of the quarry to 195m AOD, retrospective permission to regularise lateral extensions to the existing quarry and erection of a building. Red Rock Canyon Quarry, Bowscar, Penrith (EP)</td>
<td>02.06.17</td>
</tr>
<tr>
<td>Copeland</td>
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</tr>
<tr>
<td>4/17/9004</td>
<td>Yard for Skip Hire, Storage and Sorting of Waste. Whitehaven Skips and Service Ltd, 12, Leconfield Industrial Estate, Cleator Moor, CA25 5QB (DH)</td>
<td>15.02.17</td>
</tr>
<tr>
<td>4/17/9010</td>
<td>Amendment to Condition 2 of Planning Permission Ref. 4/16/9006 to update the precautionary working method statement Manhole 11, Land to the west of the Low Level Waste Repository, Drigg, Holmrook, CA19 1XL (JP)</td>
<td>22.06.17</td>
</tr>
<tr>
<td>South Lakeland</td>
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</tr>
<tr>
<td>5/17/9008</td>
<td>Erection of a UV MCC Control Kiosk on a raised platform Kendal Wastewater Treatment Works, Wattsfield Road, Kendal, LA9 5JN (EP)</td>
<td>20.06.17</td>
</tr>
<tr>
<td>5/17/9009</td>
<td>Upgrade and expansion Ulverston Wastewater Treatment Works, Sandside, Ulverston, LA12 9EG (DH)</td>
<td>26.06.17</td>
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<tr>
<td>Barrow</td>
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</tr>
<tr>
<td>6/17/9007</td>
<td>Variation of condition No 2 of Planning Permission 6/15/9007 to allow change to the surfacing of the footway to a bitmac surface. Barrow Waterfront Development, Barrow-in-Furness (JP)</td>
<td>31.05.17</td>
</tr>
<tr>
<td>6/17/9008</td>
<td>Erection of a portacabin building for a temporary time period and associated extension of hardstanding area Land adjacent to Block C, Dowdales School, Nelson Street, Dalton-in-Furness, LA15 8AH (EP)</td>
<td>27.06.17</td>
</tr>
</tbody>
</table>
# DEVELOPMENT CONTROL & REGULATION COMMITTEE

**Meeting Date:** 18 July 2017  
**From:** Corporate Director - Economy and Highways

## APPLICATIONS TO BE CONSIDERED AT FUTURE MEETINGS

NOTE: These are applications that have been submitted to the County Council but are not yet ready/appropriate for presentation to the Committee and/or have been recently withdrawn or determined as invalid, or not requiring planning permission, etc. Case Officer Contact Details are provided in the Footnote at the rear of the Agenda.

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<thead>
<tr>
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<th>Date Valid Application Received</th>
<th>Notes / Updates</th>
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</thead>
<tbody>
<tr>
<td>Carlisle</td>
<td>Nil</td>
<td></td>
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</tr>
<tr>
<td>Allerdale</td>
<td>Nil</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Eden | **3/08/9020**  
Tata Steel  
Application to Deepen Part of Shapfell Quarry and associated mitigation measures  
Shapfell Quarry, Hardendale, Shap, Penrith, CA10 3QG (EP) | 01.12.08 | EIA Application |
| | **3/17/9009**  
Cumbria County Council  
Listed Building Consent for permanent repair work to Brougham Old Bridge to reinstate it to its pre-flood damaged appearance; Brougham Old Bridge, Brougham, Penrith, CA10 2AA (EP) | 29.06.17 | |
| Copeland | **4/17/9007**  
West Cumbria Mining  
Development of an existing surface mine entrance for a new underground metallurgical coal mine and associated surface development including: coal storage and processing buildings; access road; security fencing; lighting; outfall to sea; surface water management system; landscaping; at the former Marchon site (High Road) Whitehaven; interconnecting underground coal conveyor to a new coal loading and railway siding to the Cumbria Coast Railway Line, with adjoining office/welfare facilities; extension of railway under pass; security fencing; lighting; landscaping; construction of a temporary development compound and associated permanent service access off Mirehouse Road, Pow Beck valley south of Whitehaven (RB) | 31.05.17 | EIA Application |
<p>| South Lakeland | | | |</p>
<table>
<thead>
<tr>
<th>Authority Area/Ref. No. (Web-link)</th>
<th>Applicant</th>
<th>Proposal / Site Location / Case Officer</th>
<th>Date Valid Application Received</th>
<th>Notes / Updates</th>
</tr>
</thead>
<tbody>
<tr>
<td>5/16/9014</td>
<td>L&amp;W Wilson (Endmoor) Ltd</td>
<td>Variation of Conditions 1, 2 and 6 of Planning Permission 5/06/9008 in order to extend the timescale for operations by 15 years to 1st November 2031, provide a revised working scheme, and allow for night-time working Roan Edge Landfill and Recycling Facility Site, New Hutton, Kendal, LA8 0AP (EP)</td>
<td>01.11.16</td>
<td>Further Information Submitted 26.06.17</td>
</tr>
<tr>
<td>5/16/9015</td>
<td>L&amp;W Wilson (Endmoor) Ltd</td>
<td>Variation of Condition 1 and Removal of Condition 2 of Planning Permission 5/06/9009 in order to extend the timescale for use of the access to 1st November 2031 and allow for night-time working Roan Edge Landfill and Recycling Facility Site, New Hutton, Kendal, LA8 0AP (EP)</td>
<td>01.11.16</td>
<td>Further Information Submitted 26.06.17</td>
</tr>
<tr>
<td>5/16/9016</td>
<td>L&amp;W Wilson (Endmoor) Ltd</td>
<td>Variation of Condition 1 and Removal of Condition 7 of Planning Permission 5/12/9009 in order to extend the timescale for operation of the Wash Plant and associated infrastructure to 1st November 2031 and allow for night-time working Roan Edge Landfill and Recycling Facility Site, New Hutton, Kendal, LA8 0AP (EP)</td>
<td>01.11.16</td>
<td>Further Information Submitted 26.06.17</td>
</tr>
<tr>
<td>5/16/9018</td>
<td>L&amp;W Wilson (Endmoor) Ltd</td>
<td>Southern extension so as to extract mineral, engineer landfill void and deposit inert waste. Roan Edge Landfill and Recycling Facility Site, New Hutton, Kendal, LA8 0AP (EP)</td>
<td>28.12.16</td>
<td>Further Information Submitted 26.06.17</td>
</tr>
<tr>
<td>5/17/9003</td>
<td>Williamson Brothers (NW) Ltd</td>
<td>Proposed Restoration Scheme on Former Tip Site to Improve Farm Land Field No 9322 &amp; 0430, Newlands, Ulverston, LA12 7QQ (JP)</td>
<td>06.02.17</td>
<td>Withdrawn</td>
</tr>
</tbody>
</table>

**Barrow**

Nil
DEVELOPMENT CONTROL & REGULATION COMMITTEE

Meeting Date: 18 July 2017

From: Corporate Director - Economy and Highways

REPORTS AND UPDATES ON PLANNING ENFORCEMENT RELATED MATTERS

NOTE: These are reports on proposed and/or implemented cases of planning enforcement action.

<table>
<thead>
<tr>
<th>Authority Area/Ref. No.</th>
<th>Enforcement Action / Site Location / (Case Officer)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carlisle</td>
<td>Nil</td>
</tr>
<tr>
<td>Allerdale</td>
<td>Nil</td>
</tr>
<tr>
<td>Eden</td>
<td>Nil</td>
</tr>
<tr>
<td>Copeland</td>
<td>Nil</td>
</tr>
<tr>
<td>South Lakeland</td>
<td>Nil</td>
</tr>
<tr>
<td>Barrow</td>
<td>Nil</td>
</tr>
</tbody>
</table>

CASE OFFICER CONTACT DETAILS:

<table>
<thead>
<tr>
<th>Initials</th>
<th>Officer Name</th>
<th>Title / Position</th>
<th>Tel.</th>
<th>email</th>
</tr>
</thead>
<tbody>
<tr>
<td>DH</td>
<td>David Hughes</td>
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</tr>
</tbody>
</table>

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