



## Appeal Decision

Site visit made on 10 May 2023

**by Elaine Moulton BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> November 2023**

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**Appeal Ref: APP/G0908/W/22/3307515**

**Land at Derwent Forest, Broughton Moor, CA13 0YY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Nigel Catterson of Derwent Forest Development Consortium Ltd against the decision of Allerdale Borough Council.
  - The application Ref FUL/2021/0070, dated 12 February 2020, was refused by notice dated 23 March 2022.
  - The development proposed is 71 residential units (access, scale, layout, appearance, landscaping).
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### Decision

1. The appeal is allowed and planning permission is granted for 71 residential units (access, scale, layout, appearance, landscaping) at Land at Derwent Forest, Broughton Moor, CA13 0YY in accordance with the terms of the application, Ref FUL/2021/0070, dated 12 February 2020, subject to the following conditions within the attached schedule.

### Preliminary Matters

2. The description of development given in the formal decision and the banner heading above is taken from the Decision Notice. This reflects the change, prior to the determination, from an application for outline planning permission to one for full planning permission. I have determined the appeal on that basis. In my formal decision above I have omitted the words 'application for' as such words do not describe acts of development.
3. The proposed development was considered to fall under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The planning application for the appeal scheme was therefore accompanied by an Environmental Statement (ES) dated February 2020 which, in respect of ecology, has been updated during the appeal process. The ES was produced in accordance with the Regulations, and I am satisfied that it reasonably complies with the provisions of Schedule 4 of the EIA Regulations. I have taken into account the Environmental Information, as defined in the EIA Regulations, in determining the appeal.
4. The appeal site lies within a 10km Zone of Influence of three European Designated Sites: The River Derwent and Bassenthwaite Lake Special Area for Conservation (RDBL SAC); the Solway Firth Special Protection Area (SF SPA); and North Pennine Dales Meadows Special Area for Conservation (NPDM SAC). Such sites are afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended. Although not forming part of the Council's reason for refusal, it is incumbent upon me as a competent authority

to consider whether the proposal would be likely to have a significant effect on the integrity of the SACs and the SPA. It is therefore necessary to consider this matter as a main issue.

5. The appeal is supported by a planning obligation in the form of a signed and certified unilateral undertaking, dated 9 June 2023, made pursuant to section 106 of the Town and Country Planning Act 1990 (the UU). The UU makes provision for affordable housing, open space, a contribution towards education, wider site remediation and a cycle path. Such provision will be addressed later in my decision.
6. I acknowledge that on 1 April 2023, Allerdale Borough Council, Carlisle City Council and Copeland Borough Council merged to form a new Unitary Authority called Cumberland Council. However, this has no effect on the determination of this appeal.

### **Main Issues**

7. The main issues are:
  - whether the proposal would undermine the delivery of a comprehensive development of the Derwent Forest site, with particular regard to the provision of a master plan and the adequacy of off-site infrastructure and transport; and
  - the effect of the proposal on the integrity of the SACs and the SPA.

### **Reasons**

#### *Delivery of a comprehensive development*

8. The appeal site forms part of a former Royal Navy Armaments Depot (RNAD), measuring 425 hectares, known as Derwent Forest. The RNAD has lain largely redundant since 1992 and contains a large number of explosive magazine stores.
9. In recognition of the scale, nature and strategic potential of the Derwent Forest site, the Allerdale Local Plan (Part 1) Strategic and Development Management Policies (July 2014) (LP1) includes Policy S18. Policy S18 indicates that the Council recognises the need to secure a mix of uses for the project to be viable and to enable the restoration of the site to an appropriate level of use. It sets out uses that will be supported by the Council either individually or in combination.
10. A development of 25 self-build dwellings has planning permission within the Derwent Forest site, close to the appeal site, and is at an advanced stage of construction.
11. One of the requirements of LP1 Policy S18 is that any proposal will be expected to provide, as part of any planning application, a comprehensive masterplan for the site, including phasing, to ensure delivery of a coherent solution for the site and to avoid a piecemeal approach. The explanatory text to the policy, at paragraph 213, indicates that a comprehensive masterplan is required to ensure that development results in a coherent and well-planned future use that secures the important network of habitat species and green infrastructure as a whole.

12. The Strategic Masterplan Framework (SMF), submitted in support of the application, sets out a long-term strategy for the entire Derwent Forest site, identifying 3 'settlement' areas which would comprise housing and, in respect of Settlements 2 and 3, may include workspaces, spaces for new employment uses and agribusiness. The SMF also shows a cluster of community, commercial and other shared public facing facilities in a central area. The SMF therefore shows the potential for the provision of a mix of uses across the Derwent Forest site that are compatible with those identified in LP1 Policy S18 and compatible with the proposed and existing residential developments.
13. In addition, the SMF includes a landscape strategy for the retention and management of existing and new woodland. It therefore supports a coherent and well-planned future use that would secure the important network of habitat, species and green infrastructure. Furthermore, it also includes significant elements of public access as required by LP1 Policy S18.
14. The SMF contains a section in which it sets out stages of the development. These are comparable to phases as they set out how the development of the site could take place following the establishment of Settlement 1, comprising the appeal proposal and the self-build houses. As highlighted in the Council's decision, the SMF does not provide triggers and thresholds, nor does it provide a clear mechanism for overall delivery. However, LP1 Policy S18 does not specify that such information is required for a masterplan to be comprehensive. Moreover, given the scale of the Derwent Forest site and extent of remediation that would be required to enable its development, it is reasonable to anticipate that the development of the wider site would take place over many years. The economic context is therefore likely to change within such a protracted development period. Consequently, a rigid masterplan which sets out a timeframe for the completion of the development of overall site and specifies the nature of the development within later phases is unlikely to provide the flexibility that would be necessary to respond to such changes.
15. I therefore consider that a more detailed masterplan with triggers and thresholds and a mechanism for overall delivery could undermine, rather than promote, any prospect of the comprehensive development of Derwent Forest and put at risk the achievement of the policy aims.
16. At paragraph 211, the explanatory text indicates that further residential development to achieve the viability and secure the overall restoration of the site may also be supported where it is demonstrated that the objectives of the Policy are met. I acknowledge that there is an absence of specific, financial, evidence that demonstrates that the appeal proposal is required to secure the viability of the development of the wider site. However, given the extent of the required remediation, it is reasonable to consider that further residential development would be required to fund the overall restoration of the Derwent Forest site. The UU, amongst other things, provides the mechanism that secures the remediation and restoration of a large area over and above that which would be built upon as part of the appeal proposal. Consequently, although the proposal does not secure the restoration of the entire site, it does secure the remediation of a significant proportion of it.
17. In the absence of any substantive evidence that demonstrates otherwise, I do not consider that a piecemeal approach is being advanced or that the proposal would put at risk the ability to develop the remainder of the site. Taking such

matters into consideration, I consider that the SMF is comprehensive and clearly demonstrates how the development of the Derwent Forest site would deliver a coherent solution for the site including a mix of uses as promoted by LP1 Policy S18.

18. As I consider that the SMF is a comprehensive masterplan for the site, the proposal is not a stand-alone development. Consequently, even if I were to conclude that the self-build residential development under construction constitutes the limited amount of stand-alone residential development referred to at paragraph 210 of the explanatory text to the policy, that does not weigh against the proposal.
19. LP1 Policy S18 also sets out that any proposal will be expected to ensure that off-site infrastructure is adequate to accommodate any proposals. The Council raises concerns that there is uncertainty as to the achievability or viability of the master plan in the absence of details of the infrastructure requirements and associated costs for development of the wider site. However, LP1 Policy S18 does not set out any specific requirement that such information is required to demonstrate that the comprehensive development of Derwent Forest could be achieved. The absence of such information does not, therefore, result in the proposal conflicting with the requirements of the policy. Furthermore, the Highway Authority and Highways England have not suggested that an upgraded access to the A66 is necessary to ensure the acceptability of the proposal. Moreover, I have been presented with no compelling evidence that suggests that the formation of such an access at a later date, if justified, would not be achievable or viable as a consequence of the appeal proposal.
20. Accordingly, I am satisfied that the appeal proposal does not require any off-site highway improvements or infrastructure to make it acceptable in land use planning terms, or that it would prevent or undermine the possibility of a comprehensive development of the Derwent Forest site.
21. Currently the Coast to Coast cycle route (C2C) diverts around the Derwent Forest site on the public highway, and LP1 Policy S18 indicates that any proposal would be expected to include its continuation and enhancement through the site. The UU would secure the safeguarding of the C2C route until its remediation is completed, and the delivery of the route and a footpath link to it from the proposed residential development before half of the dwellings were occupied. Consequently, this requirement of LP1 Policy S18 would be achieved through the appeal proposals. Furthermore, it has been confirmed that the new section through the Derwent Forest site would be for multi-users including horse riders, thereby increasing the number of off-road horse-riding routes.
22. The proposed re-routing of the C2C and the provision of footpaths, together with the provision of bus stops, which could be secured through the imposition of a condition on a planning permission, would improve accessibility and movement in the local area, improve travel choice and reduce the need to travel using private motor vehicles.
23. Accordingly, for the reasons set out above, I conclude that the proposed development would not undermine the delivery of a viable and comprehensive development of the Derwent Forest site, with particular regard to the provision of a master plan, and the adequacy of off-site infrastructure and transport. As such, there is no conflict with LP1 Policy S18 which supports the redevelopment

of Derwent Forest or LP1 Policy S22 which seeks to ensure sustainable access has been incorporated into the development.

*Special Protection Areas and Special Area for Conservation*

24. The RDBL SAC includes the River Derwent, a large nutrient poor river system with high water quality and a natural channel, and Bassenthwaite Lake which has an extensive catchment that is subject to rapid through-flow of water and moderate nutrient status. Such features of the RDBL SAC support a range of vegetation and populations of rare and vulnerable species including, marsh fritillary butterfly, sea lamprey, brook lamprey, river lamprey, Atlantic Salmon, otter and floating water-plantain.
25. The SF SPA is a large estuarine/marine site on the west coast of Great Britain which supports populations of several rare, vulnerable and migratory bird species. The NPDM SAC contains mountain hay meadows and purple moor grass meadows which support a wide range of rare and local meadow species including globeflower, the lady's mantle and spignel.
26. The appeal site is downstream from the NPDM SAC and therefore pollution via surface water drainage is not likely. In addition, the distance downstream to the SF SPA is such that any pollution event on the appeal site would be sufficiently diluted by the fluvial and tidal process along the river and within the estuary to avoid an adverse effect upon its supporting habitats and conservation status. The proposal is not, therefore, likely to have a significant effect on the internationally important interest features of the NPDM SAC or the SF SPA, alone or in combination with other plans and projects.
27. There is, however, a direct hydrological connection between the appeal site and the RDBL SAC via Flamiggs Gill North. Therefore, the discharge of polluted surface water run-off into Flamiggs Gill has the potential to adversely affect the conservation status of the qualifying features of the RDBL SAC. As such, it is necessary for me, as the competent authority, to conduct an appropriate assessment in relation to the effect of granting permission on the integrity of the Habitat Sites.
28. The appeal proposal would result in a net increase of 71 new dwellings within the Zone of Influence of the RDBL SAC. This would be likely to increase the potential for sediment or other polluting run-off to enter watercourses leading to a deterioration in water quality, the potential for impacts arising from disturbance of contaminated land and the potential for the introduction and/or spread of invasive non-native species.
29. Several conditions have been suggested to address such impacts during and after construction. These comprise a condition requiring a Construction Environmental Management Plan to secure the management of surface water during construction. In addition, conditions to secure the approval of surface water and foul water drainage schemes, and the management of water from the site to ensure that the drainage of the proposed development prevents pollution of the water courses. I am satisfied, on the basis of the evidence before me, that such conditions would secure the necessary mitigation to ensure that the proposal would not harm the integrity of the RDBL SAC.
30. Having regard to the views of Natural England, and subject to the imposition of the conditions referred to above on which I place weight, I am satisfied that

the development would not cause harm to the ecological value of the RDBL SAC.

31. In conclusion, the proposal would not harm the integrity of the SF SPA or the NPDM SAC, or, subject to conditions, the RDBL SAC. It therefore accords with paragraph 175 of the National Planning Policy Framework (the Framework).

### **Planning obligation**

32. Consideration of planning obligations is to be undertaken having regard to paragraph 57 of the Framework and the statutory requirements contained in Regulation 122 and 123 of the Community Infrastructure Levy (CIL) Regulations, 2010 (the Regulations). As set out above, the signed and certified planning obligation, the UU, secures the remediation and restoration of a large part of the Derwent Forest site and the rerouting of the C2C cycle route. In addition, the UU secures affordable housing, a financial contribution to education and educational transport needs, and the on-going maintenance of open space within the site.
33. Policy SA3 of the Allerdale Local Plan (Part 2) Site Allocations (July 2020) (LP2) seeks provision of 20% of dwellings as affordable housing. It indicates that the Council will normally seek a tenure split of 50% affordable rented and 50% intermediate affordable units but will take into consideration the identified local need and site specifics, including viability.
34. The UU secures the provision of 14 dwellings which, when rounded up, amounts to 20%. All such dwellings, as discounted sale units, would be intermediate affordable units. The Council confirm that the amount of affordable housing and the tenure of such houses as set out in the UU is acceptable. Based on the evidence before me I find no reason to conclude otherwise than that such provision of affordable housing is acceptable.
35. The financial contributions towards the provision of primary education, secondary school transport costs and the administrative costs of arranging such transport as set out in the UU are lower than the level initially requested by the former Cumbria County Council, the then Local Education Authority (LEA). Nonetheless, following negotiation and having regard to the viability of the proposed developments, such contributions have been agreed by the LEA and the main parties. There is no substantive evidence before me that would lead me to disagree that the level of contributions towards education as set out in the UU is unacceptable.
36. The maintenance of the open and publicly accessible space, carrying out remediation and restoration works and the rerouting of the C2C cycle route within the Derwent Forest site are, required to accord with LP1 Policy S18.
37. Accordingly, the provisions of the UU are necessary to make the development acceptable in planning terms, and are directly related to, and fairly and reasonably related in scale and kind to, the development. I am therefore satisfied that the UU would accord with the Regulations and meet the tests set out in paragraph 57 of the Framework.

## **Other Matters**

38. I have had regard to the other matters raised by interested parties, including the biodiversity impacts of the proposals and that the development would be out of keeping with, and harmful to, the character and appearance of the area. However, I have been presented with no substantive evidence that would lead me to determine that the proposal would result in material harm sufficient to justify dismissing this appeal.
39. In addition, whilst I acknowledge the lack of renewable energy infrastructure within the appeal proposals, there is nothing before me that demonstrates such infrastructure is required to accord with development policy. Furthermore, the proposed development would not prevent renewable energy schemes within later phases of the development. Consequently, this does not weigh against the granting of planning permission.

## **Conditions**

40. The Council and appellant have suggested a number of conditions which I have considered against the Framework and Planning Practice Guidance. As a result, for clarity, consistency and to avoid duplication, I have made some amendments to the wording without changing their overall intention.
41. In addition to the standard time limit condition limiting the lifespan of the planning permission I have also, in the interests of certainty, attached conditions specifying that the development is carried out in accordance with approved plans.
42. I have imposed a condition requiring a programme of archaeological work in the interest of the historic environment.
43. Having regard to highway safety, conditions requiring the approval, provision and retention of onsite road works and visibility splays are necessary as is a condition to secure the parking, loading, unloading and manoeuvring of vehicles. In addition, the approval and provision of new bus stops, cycleways and footpath connections are also necessary to promote sustainable modes of transport.
44. I also include conditions which require a Construction Environmental Management Plan and a site compound, so that the construction process is suitably controlled and minimises its effects on the surroundings and highway safety.
45. Given the nature of the former use of the site and surroundings, to minimise risks for future occupiers, neighbouring occupiers and the environment, and to ensure appropriate remediation and restoration within the wider Derwent Forest site, conditions are required to ensure that contamination and the implications of past coal mining activity are appropriately addressed, and the stability of the site secured.
46. Conditions requiring the approval of surface water and foul water drainage schemes and the management of water from the site are included. Such conditions are necessary to ensure the site is suitably and correctly drained to prevent flooding, and to protect Flamiggs Gill as well as the RDBL SAC. For similar reasons, further conditions are required to ensure the management and

- maintenance of those drainage schemes and to prevent storage of materials within the flood plain.
47. It is necessary for suitable measures to be in place during construction to protect nearby trees. I have also imposed conditions which require a Biodiversity Management Plan, Species Protection Plan and details of the demolition of the existing building to ensure that the impact of the development on biodiversity and protected species is appropriately addressed.
  48. To ensure the satisfactory appearance of the proposed development, I have considered it necessary to attach conditions relating to the facing materials, elevational details, hard and soft landscaping and to secure a landscape management plan. A condition relating to boundary treatments is required for the same reason and in the interests of the living conditions of the occupiers of the development.
  49. In addition, whilst I have concluded that it is necessary for the details to be submitted prior to commencement, I have included a condition requiring the provision of wheelchair user dwellings to ensure suitable housing and genuine choice for all, including disabled people. To protect the living conditions of the occupants of neighbouring properties the provision of obscure glazing in certain windows is also necessary.
  50. To provide advanced, high quality and reliable communications in accordance with the Framework, an appropriate broadband connection to the dwellings should be provided unless it is demonstrated this is not possible.
  51. The conditions 3, 7, 9, 11, 12 and 18 are pre-commencement because the satisfactory delivery of the matters covered in such conditions could be prejudiced if resolved later. Conditions 4, 5, 6, 8, 14, 15, 16, and 17 require agreement before the commencement of development because they affect how the development is undertaken from the outset.

### **Conclusion**

52. For the reasons given above, having regard to the development plan as a whole and all relevant material considerations, including the Framework, the appeal should be allowed.

*Elaine Moulton*

INSPECTOR

### Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out solely in accordance with the proposals as detailed on drawings:  
Location Plan: A2A.867\_901 rev C  
C2C Location Plan: A2.19.867\_002 rev A  
Site Layout: A2A.19.867\_902 rev K  
Site Layout- Roof Plan: A2A.19.867\_921 rev C  
Layout Plan - Housing: A2A19.867\_903 rev F  
Construction Traffic Routing (22/11/21)  
House Type A Plans: A2A.19.867\_300 Rev B  
House Type A Elevations: A2A.19.867\_301 Rev B  
House Type A Material Study: A2A.19.867\_1000\_REVA  
House Type B Plans: A2A.19.867\_302 Rev B  
House Type B Elevations: A2A.19.867\_303 Rev B  
House Type B Material Study: A2A.19.867\_1001\_REVA  
House Type C Plans: A2A.19.867\_304 Rev A  
House Type C Elevations: A2A.19.867\_305 Rev A  
House Type C Material Study: A2A.19.867\_1002\_REVA  
House Type D Plans: A2A.19.867\_306 Rev A  
House Type D Elevations: A2A.19.867\_307 Rev A  
Apartment Type C Material Study: A2A.19.867\_1003\_RevA  
House Type E Plans: A2A.19.867\_308 Rev A  
House Type E Elevations: A2A.19.867\_309 Rev A  
House Type E Material Study: A2A.19.867\_1004\_RevA  
Interface Distances A2A.19.867\_922 Rev C  
Site Remediation Phase II (22/11/21)  
Affordable Housing: A2A 19.867 923 Rev B  
Landscape Plan: DFP2-WW-01B
- 3) No development shall commence until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which shall be submitted to and approved in writing by the local planning authority (LPA). This written scheme shall include the following components:
  - i) A Level 1 Survey, as described by Historic England's document Understanding Historic Buildings A Guide to Good Recording and Practice 2016, of the existing building affected by the proposed development;
  - ii) An archaeological evaluation;
  - iii) 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, there shall be carried out within one year of the completion of that programme on site, or within such timescale as otherwise agreed in writing by the LPA; a post excavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the LPA, completion of an archive report, and submission of results for publication in a suitable journal.

- 4) The carriageway, footways, footpaths, cycleways etc. shall be designed, constructed, drained and lit to a standard suitable for adoption by the Highway Authority and in this respect further details, including longitudinal/cross sections (including speed control measures and footpath connections to the existing footpath network on the C2007 highway to Gt Broughton) shall be submitted to and approved in writing by the LPA before work commences on site. No development shall commence until a full specification has been approved. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide. Any works so approved shall be constructed before the development is fully occupied and maintained thereafter.
- 5) No development shall commence until visibility splays, providing clear visibility of 120 metres measured 2.4 metres down the centre of the access road and the nearside channel line of the carriageway edge, have been provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded and maintained thereafter.
- 6) No development shall commence until details showing the provision within the site for the parking, turning and loading and unloading of vehicles visiting the site, including the provision of parking spaces for visitors, has been submitted to and approved in writing by the LPA. The development shall not be brought into use until any such details have been approved and the parking, loading, unloading and manoeuvring areas shall be kept available for those purposes at all times and shall not be used for any other purposes.
- 7) Development shall not commence until details of new bus stops on the C2007 in the vicinity of the proposed site access have been submitted to and approved in writing by the LPA. The approved works shall be implemented prior to the development being completed.
- 8) No development shall commence until details of the proposed retained areas for the compound's vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development have been submitted to and approved in writing by the LPA. The approved works shall be implemented prior to the development being completed.
- 9) No development shall commence until a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) has been submitted to and approved in writing by the LPA. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the LPA, no surface water shall discharge to the public sewerage system either directly or indirectly. The development shall be completed, maintained and managed in accordance with the approved details.

10) The development shall solely be undertaken in accordance with the approved Environmental Management Plan (CEMP), dated 14/03/22, which includes traffic management details.

11) No development shall commence until

- a) A scheme of intrusive investigations has been carried out on the development site to establish the risk posed to the development by the recorded mine entry shaft;
- b) Any remediation works and/or mitigation measures to address land instability arising from the mine entry, as may be necessary, have been implemented on site in full order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

12) No development shall commence until a detailed remediation scheme has been submitted to and approved in writing by the LPA. The scheme must include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. In addition to the appeal site, the scheme shall address the area as outlined in blue on location plan A2A.867\_901 rev C and provide a site wide strategy for Derwent Forest in accordance with the stated remediation objectives.

13) Should a remediation scheme be required under condition 12, the approved strategy shall be implemented, and a verification report submitted to and approved in writing by the LPA, prior to the development (or relevant phase of development) being brought into use.

14) No development shall commence until a scheme for the management of water arising from the application site has been submitted to and approved in writing by the LPA. The scheme shall include measures to ensure that any contaminated drainage does not enter Flamiggs Gill, and for the temporary and correct storage of any oil, fuel, or other chemicals used on the site during construction. The scheme shall be implemented in accordance with the approved details.

15) No development shall commence until a plan has been submitted to and approved in writing by the LPA to show all existing trees which are to be felled or retained, together with the positions and height of protective fences, the areas for the storage of materials and stationing of machines and huts, and the position and width of temporary site roads and accesses. The details so approved shall be implemented prior to the commencement of the development and maintained at all times during the construction period.

16) No development shall commence until a Biodiversity Management Plan (including Construction Management Plan) has been submitted to and approved in writing by the LPA. The plan shall include details of the measures to be implemented during and after construction works at the site to safeguard the habitat of the Great Crested Newt species at or near the site in accordance with

the principles and recommendations of Appendix 5.3 Greater Crested Newt Presence/Absence Survey Feb 2020. The works shall be carried out solely in accordance with the approved details and thereafter managed at all times in accordance with the approved scheme.

- 17) No development shall commence until a Species Protection Plan (SPP) has been submitted to and approved in writing by the LPA in accordance with the mitigation measures outlined in section 5.5 and 5.8 of 'Chapter 5 – Ecology' of the Environmental Statement Volume 1, Badger Survey Walkover Survey Report dated 07.09.2022, and the updated Non-Technical Summary dated 31 August 2023. The SPP shall detail measures to safeguard protected species known to be in the area and will include preconstruction surveys for protected species (complementing the seasonality of the construction start date) as well as ensuring the use of the best practice measures during all construction activities (including badgers). The SPP will describe the process to be followed in the case that new protected species are recorded on site that would need to be protected during construction works as well as ensuring the implementation of effective toolbox tasks to raise awareness to site personnel of sensitive ecological receptors on site.
- 18) No development shall commence until the means of foul water drainage of the site has been submitted to and approved in writing by the LPA. The drainage scheme shall demonstrate that either:
- i) The public sewer has capacity to treat additional foul wastewater from the proposed development within current environmental permit limits, having regard to the conservation objectives for the River Derwent and Bassenthwaite Special Area for Conservation (SAC); or
  - ii) The necessary treatment capacity will be delivered within an agreed Asset Management Plan and that when implemented the treatment capacity will ensure that additional wastewater generated by the development remains within the environmental permit limits, having regard to the conservation objectives for the River Derwent and Bassenthwaite SAC.
- Any variation to the means of foul water drainage shall be agreed in writing by the LPA before development commences. The approved foul water drainage works shall be completed in accordance with the approved scheme prior to the occupation of the development.
- 19) The surface water drainage for the development hereby approved shall be carried out in accordance with the principles set out in the Indicative Drainage Layout plan, ref A115081-21-C-SK003 Revision P1, dated Dec 2019. No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the method discharge of surface water shall be agreed in writing by the LPA before development commences. The approved surface water drainage shall be completed in accordance with the approved plans prior to the occupation of the development.
- 20) There shall be no storage of materials, including soil, within that part of the site that lies in the flood plain of Flamiggs Gill.

21) Prior to occupation of the development a Sustainable Drainage Management and Maintenance Plan for the lifetime of the development shall be submitted to and approved in writing by the LPA. The Plan shall include as a minimum:

- i) Arrangements for adoption by an appropriate public body or statutory undertaker, or management and maintenance by a resident's management company; and
- ii) Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

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

22) No part of the development hereby permitted shall be constructed above ground floor level until details to demonstrate that 5% of the overall scheme's dwellings will be designed and constructed to meet the standards set out in the optional Building Regulations 2010 (as amended) requirement M4(3) (or any equivalent standard) has been submitted to and approved in writing by the LPA. The works shall be implemented in accordance with the approved details.

23) No part of the development hereby permitted shall be constructed above ground floor level until details of all external and roofing materials have been submitted to and approved in writing by the LPA. Only the materials so approved shall be used in the development hereby permitted.

24) Prior to the occupation of any dwelling hereby permitted all means of enclosure/screen to that property shall have been constructed in accordance with details, including siting, height and type, that shall be submitted to and approved in writing by the LPA. All such means of enclosure/screen so constructed shall be retained and no part thereof shall be removed without the prior consent of the LPA.

25) No part of the development hereby permitted shall be constructed above ground floor level until there has been submitted to and approved in writing by the LPA a scheme of hard and soft landscaping. The scheme shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for their protection in the course of construction. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the LPA.

26) A landscaping management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned domestic gardens, shall be submitted to and approved in writing by the LPA prior to the occupation of any dwellinghouse or any piece of development for its permitted use, whichever is the sooner. The development shall thereafter be maintained at all times in accordance with the approved management plan.

- 27) The demolition works of the existing building (MAG64) within the application site shall be implemented solely in accordance with the recommended mitigation measures (including undertaking further presence surveys) outlined in Annex A of Appendix 5.2 Preliminary Roost Assessment and Barn Owl Survey.
- 28) Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and is stable for the approved development shall be submitted to and approved in writing by the LPA. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed.
- 29) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the LPA. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the LPA. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the LPA. These approved schemes shall be carried out before the development, or relevant phase of development, is resumed or continued.
- 30) Notwithstanding the submitted details, all first-floor side elevation windows on House types A, B, C and E shall be installed with obscure glazing prior to the occupation of each respective dwellinghouse, and retained at all times for the lifetime of the development unless agreed in writing by the LPA.
- 31) Prior to first occupation of each dwelling, details for that dwelling shall be submitted to and approved in writing by the LPA of either:
- i) Evidence that the applicant will provide onsite access to broadband infrastructure providers during the construction process to allow the providers to install the necessary broadband infrastructure; or
  - ii) Evidence, following contact with broadband infrastructure providers, that it is not practicably or viably possible to install broadband infrastructure to achieve superfast (as defined by Government standards) fibre broadband connectivity.