



Appeal Decision

Hearing held on 11 July 2023

Site visit made on 12 July 2023

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2023

Appeal Ref: APP/Z0923/W/23/3316104

Land at Harras Moor, Whitehaven

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Homes England against the decision of Copeland Borough Council.
 - The application Ref 4/18/2287/001, dated 18 May 2018, was refused by notice dated 18 August 2022.
 - The development proposed is an outline application for a development of up to 370 dwellings with associated open space and infrastructure.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 370 dwellings with associated open space and infrastructure on Land at Harras Moor, Whitehaven, in accordance with the application Ref: 4/18/2287/001, dated 18 May 2018, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application was in outline with only access to be determined at this stage. However, indicative plans were also provided in the form of an illustrative masterplan, a parameters plan, an illustrative layout, and an indicative phasing plan. These sought to demonstrate how 370 dwellings could be provided on the site served by two all modes accesses and a road connecting Caldwell Road with Harras Road. Elsewhere the masterplan and illustrative layout showed roads to be cul-de-sacs of varying length. The parameters plan indicated seven potential locations for accesses for pedestrians and cyclists between the site and surrounding area. The indicative plans also showed areas of woodland, ecological areas, public open space and play areas. I have had regard to these indicative plans in reaching my decision.
3. Local authorities in Cumbria have been merged since the application was determined. Copeland Borough Council as local planning authority and Cumbria County Council as local highway authority have been combined into the Unitary Authority of Cumberland Council which came into being on 1 April 2023.
4. On 5 June 2023 the Council informed PINS that after careful consideration it would not be defending its reasons for refusal or providing an appeal statement. This was confirmed when, on 6 July 2023, the Planning Committee of Cumberland Council formally resolved not defend the appeal. Nevertheless, officers from the Council attended the Hearing to answer questions about the proposal having regard to the reasons for refusal on Copeland Borough Council's decision notice and other matters raised by interested parties.

5. A draft planning obligation was submitted prior to the Hearing. Following agreement to minor amendments, the planning obligation was completed and submitted on 15 August 2023. This secures provision of:
 - i) affordable housing (rented and shared ownership units),
 - ii) open space and its management and maintenance,
 - iii) a contribution to deliver off-site highway works at Cleator Moor Road/Main Street and
 - iv) a travel plan monitoring fee of £10,560.
6. In addition to the accompanied site visit referred to above, I undertook an extensive visit of the area on 10 July, having previously asked the main parties to provide a list of places that they wished me to see. This included visiting many of the junctions referred to in the transport assessment and sites where pedestrian/cycle access could be provided into the development. I also took the opportunity to familiarise myself with the site's relationship to A595 trunk road, the town centre, and major local traffic generators including schools and the hospital.

Main Issues

7. Having regard to all that I read and heard, the main issues are:
 - a) the effect of the proposal on highway safety;
 - b) the effect of the proposal on the operation of the surrounding highway network;
 - c) whether the proposal adequately addresses national and local planning policy objectives in respect of sustainable transport.

Reasons

8. The appeal site, which extends to 23 hectares, lies to the southwest of Harras Moor. Although it is undeveloped, it lies within the settlement boundary of Whitehaven and was allocated for residential development in the Copeland Local Plan 2001-2016 (Saved Policy HSG2). The site rises steeply from Loop Road South (A595) on its western side towards Harras Road, levelling out in line with Caldbeck Road. It lies between two existing residential estates, Highlands to the north and Hillcrest to the south.

Highway safety

a) Access arrangements

9. For a development of the scale proposed the highway authority requires at least two vehicular accesses. The first of these would be an extension of Caldbeck Road into the appeal site without the need for any new junction. No highway safety issues have been identified with this access.
10. Secondly, a new priority junction would be provided on Harras Road. The details of this have been agreed with the highway authority and include provision of visibility splays of 2.4m x 63m. The design has been based on extrapolating the guidance set out in Manual for Streets (MfS) to take account of the observed 85th percentile speed of just over 40mph. Although the guidance in MfS sets out recommendations for situations where speeds are below 37mph, the speed limit is 30mph and traffic flows on Harras Road are not high (approximately 2,000 vehicles/day).

11. In considering the requirements for the access the highway authority took account of the planning permission which has been granted for residential development on the opposite side of HARRAS Road, which is also proposed to be served by a priority junction. This development would widen the carriageway, provide a footway on the northern side of the road and a pedestrian refuge to facilitate safer crossing of HARRAS Road. The highway authority considered that traffic speeds would be likely to decrease in response to these changes, thereby justifying its acceptance of the standards to be applied. Moreover, visibility along this relatively straight section of HARRAS Roads exceeds the dimensions of the proposed splays. It is therefore common ground that this proposed access, which can be provided within land in the appellant's ownership, would be acceptable and would meet current safety standards.
12. There was no evidence to suggest that there are existing road safety issues on HARRAS Road near the proposed access to the site. Although primarily catering for the needs of vehicles, the accesses at Caldbeck Road and HARRAS Road would incorporate provision for pedestrians with 2m footways. This would ensure that they would be safe for all users.

b) Safety on the surrounding highway network

13. Concerns were raised about the effects of the additional traffic from the proposed development on road safety in the area beyond the site. The safety record of an agreed study area extending to approximately 4.3 sq.km was considered within the Transport Assessment (TA) and Transport Assessment Addendum (TAA) submitted with the application. Road safety issues were also addressed within the independent review of these documents undertaken by Arup on behalf of the Council. Particular attention was focussed on junctions in the area identified by the local highway authority and National Highways, who have responsibility for the A595 trunk road.
14. The evidence relating to the safety record of the study area was thorough and detailed. It initially considered the 5-year period 2013-2017 for which data was available when the application was submitted. None of the work undertaken identified any places where there were significant clusters of crashes to cause concern. Neither were any trends identified that would suggest highway design issues contributed to those collisions.
15. The analysis was updated in the transport note prepared by Vectos and submitted with the appeal¹. This compared collision data between 2013-2017 with that collected between 2017-2021. There was a downward trend in collisions between 2016-2019. The disruption in traffic movements that accompanied the pandemic make it difficult to conclude that this trend continued in 2020 and 2021. However, given the extent of the study area, which included the A595, the main road through Whitehaven, the overall number of crashes was not unexpected.
16. All roads experience daily variations in traffic flow. Throughout most of the study area traffic generated by the development was predicted to increase within the expected daily variation of flows, and only by more than 10% on HARRAS Road and Albert Terrace. Nevertheless, residents are concerned about the potential dangers posed by additional traffic using HARRAS Road, which in

¹ Vectos: HARRAS Moor Planning Appeal Statement: Transport Note, April 2023

part is only 5m wide, where traffic is observed to exceed the speed limit, there are numerous direct accesses, and in places footways are narrow.

17. For a significant proportion of future residents, the most convenient route into the town centre from the development may well be via Harras Road and under the narrow bridge carrying the A595 (referred to as the Park View underpass). This short section of road, which is only wide enough for vehicles to travel in one direction at a time and has no footway, is already a pinch point on the existing network. This is acknowledged to be unsatisfactory, particularly for those on foot, and there is a perception that this location is dangerous.
18. However, there was no evidence of a cluster of accidents or injuries at this pinch point, either recently or over an extended period of 20 years. Even with an increase in peak hour flows of 14-15% the Arup review concluded that there would not be an unacceptable effect on highway safety. There is therefore no substantive evidence to suggest that the development would give rise to any increase in crashes across the surrounding area. Whilst I accept this conclusion in respect of road safety, I will return to matters associated with the Park View Underpass when considering the other main issues.
19. Taking all these factors into account, I conclude that the proposals for vehicular access would not give rise to any unacceptable effects on highway or pedestrian safety at either of the proposed accesses. Neither will the additional traffic increase the risk of crashes on the surrounding highway network. In these respects, the proposal accords with Policy ST1 D iii) of the Copeland Local Plan 2013-2028: Core Strategy and Development Management Policies, 2013 (Local Plan) which requires development to provide safe access arrangements. Although cited in the Council's decision notice, Policy T1 of the Local Plan is primarily concerned with transport improvements and is not directly relevant to this main issue.

The operation of the surrounding highway network

20. The focus of technical analysis within the TA submitted with the application was on the volume of traffic that would be generated by a residential development of the scale proposed. The assessment was undertaken using peak hour trip rates, based on TRICS² data, agreed by the parties. The traffic was distributed on the assumption that a road connecting the proposed accesses at Harras Road and Caldbeck Road would be provided, thereby enabling future residents to choose which route they would use to enter and leave the site. This is shown on the indicative parameters plan and illustrative layout.
21. The trip distribution was derived from 2011 journey to work census data. Assumptions about traffic growth, including the effects of committed developments in the area, were also included in the assessment. This enabled the effects of the additional traffic on the operation of 15 junctions in the morning and evening peak periods to be assessed. The scope, extent and methodologies used in this assessment were agreed by the Council and the highway authorities.
22. Following feedback from the highway authorities on the initial assessment, more detailed analysis of delays and queuing was undertaken and presented in the TAA. This demonstrated that most of the junctions could accommodate the

² Trip Rate Information Computer System

additional traffic with only a negligible effect on delays. However, two junctions were identified that would be operating over capacity; J5 (Main Street/Cleator Moor Road) and J9 (A595/Egremont Road/Homewood Road). The predicted increases in delays at these junctions were considered sufficient to justify improvements to mitigate the effects of the additional traffic from the development. This was confirmed by Arup's independent review of the TA and TAA. Initial designs for improvements at the Main Street/Cleator Moor Road roundabout (the responsibility of the local highway authority) and the A595/Egremont Road/Homewood Road roundabout (the responsibility of National Highways) have been agreed in principle between the main parties. These designs have demonstrated that improvements could be delivered within existing highway boundaries. It is therefore common ground that these works could be secured either by the imposition of appropriate conditions or through a planning obligation.

23. The robustness of the traffic analysis was confirmed by further analysis undertaken by Vectos in support of the appeal. This included assessing the consequences of the development on journey times across each period of the day. This reinforced the conclusion from previous work that, provided improvements were implemented at the two junctions already identified, the effects of the development on the convenience of vehicular travel across the surrounding highway network would be minimal.
24. Nevertheless, local people expressed genuine concern about the effects of the additional traffic on Harras Road, especially at the Park View underpass referred to above. There were strong feelings that this is unsuitable to accommodate additional traffic. However, there was no evidence of congestion at this point on the network and the expected increase in peak hour flows is not predicted to make any significant difference to the way in which the underpass currently operates. Existing issues relating to its height restriction and the difficulties experienced by large vehicles are not directly related to the development. These are therefore not matters which can be addressed in the context of this appeal.
25. For all the above reasons I conclude that, subject to securing the improvements at the two junctions identified above, the proposal would not cause significant residual impacts on the operation of the surrounding road network. The proposal would accord with Policy T1 D of the Local Plan in so far as it would mitigate its impact on the Borough's transportation system.

Sustainable transport

26. Neither of the Council's reasons for refusal referred to matters related to the sustainability of the site with respect to transport. However, Policy ST1 of the Local Plan sets out the principles that inform and underpin the Borough's planning policies. The aim of Criterion B vi) of that policy is to minimise the need to travel and support the provision of sustainable transport infrastructure, together with measures that encourage its use. Criterion B i) seeks to encourage development that minimises carbon emissions and helps adaptation to the effects of climate change. Although Policy T1 of the Local Plan primarily addresses transport improvements (rather than development proposals), the aim is to maximise accessibility for all modes of transport, particularly by foot, cycle and public transport.

27. The National Planning Policy Framework (the Framework) goes further. Paragraph 104 c) states that opportunities to promote walking, cycling and public transport should be identified and pursued. This is effectively repeated in paragraph 110 a). Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of travel modes, (paragraph 105). The requirements of paragraph 112 a), which seek to give priority first to pedestrian and cycle movements, and second – so far as possible – to facilitate access to high quality public transport, are especially relevant to the proposal. Paragraph 152 states that the planning system should support the transition to a low carbon future and seek to shape places in ways that contribute to radical reductions in greenhouse gas emissions, to help meet the challenge of climate change.
28. The emerging Local Plan, which has recently been examined, includes Policies CO4PU and CO5PU. These require proposals to encourage modal shift towards greater use of sustainable modes and explicitly refer to the hierarchy of users which puts pedestrians first. These emerging policies are more consistent with the Framework than those in the Local Plan and, as they are at an advanced stage in the process towards adoption, can be given significant weight.
29. In my view the initial transport assessment, undertaken in 2018, failed to address the Framework's overall priorities for sustainable transport. Whilst it described the accessibility of the site for pedestrians, cyclists and public transport users and did not assess the likelihood of these modes being chosen for regular journeys. Instead, it focused on access for vehicles, movements during peak periods and whether the impacts of the additional traffic from the development would fail the 'severe' test set out in paragraph 111 of the Framework.
30. There is agreement that the site is suitable for residential development given its location within the settlement boundary and not far from the wide range of facilities available within Whitehaven. However, it does not automatically follow that the site is 'sustainable' in terms of its transport accessibility. The existing modal split given in the Framework Travel Plan (FTP) showed that 73% of trips are done by car, with 10% as car passengers, less than 10% on foot, only 4% by bus and 1% by bike. This demonstrates that most of the population are highly reliant on a car to reach the services and facilities that they need.
31. The Arup review of the TA and TAA recognised that the accessibility of the site is limited, since the distances to many of the facilities are beyond the recommended or desirable distances to walk and cycle. Most of the town centre lies more than 1km from the site, even when taking the starting point as the site's boundary with the A595. Furthermore, this distance-based analysis made no reference to the topography of Whitehaven even though a considerable proportion of the site is at the top of a hill. Nor did it refer to the quality of the routes which are available. The topography, indirect pedestrian routes and inclement weather do not make walking and cycling an easy or convenient choice for many trips.
32. Added to these existing deterrents to active travel, no bus service is proposed to serve the site and the nearest bus stop is 700m from its centre. This is nearly twice as far as most people are prepared to walk to catch a bus, which is normally considered to be 400m to a stop offering a high frequency service. From some parts of the site, the walking distance to a bus stop would be more

- than 700m. Opportunities for future residents to choose public transport would be limited and would be neither attractive nor convenient.
33. The FTP did not set out targets for reducing car dependence and the measures proposed within it can only be described as too little too late. The Arup review considered it not to have sufficiently ambitious targets or measures. Arup's report went on to outline possible ways of enhancing accessibility to the town centre for pedestrians and cyclists. These included providing crossing facilities on the A595, increasing legibility of the site by securing additional links to the surrounding area, and improving connectivity along Harras Road, particularly at the Park View underpass. The report also advocated exploring means of providing a bus service for the site that would run along the internal road network. However, there was no evidence to suggest that efforts to do this had been actively pursued.
34. I consider that the assessment of the site's acceptability in planning terms requires more than an assurance that peak hour traffic flows can be accommodated without causing severe operational problems on the surrounding highway network. Measures to provide genuine choice of travel mode are required for journeys which take place throughout the day. These need to be realistic and reasonably convenient choices when compared with travel by car. They are therefore not optional extras but necessary to ensure that the development complies with the requirements of the Local Plan (particularly its emerging policies) and the Framework.
35. In the lead up to the Hearing, the appellant addressed some of the shortcomings which had been identified in the Arup report. It was agreed that a signalised crossing of the A595 should be provided to enhance access to the town centre. However, due to the extent of the adopted highway, it would only be possible to provide a crossing for pedestrians. The principles of a scheme have been agreed with National Highways and subject to a Stage 1 Road Safety Audit. A scheme to improve the attractiveness of the Park View underpass for pedestrians and cyclists has also been put forward and agreed in principle by the main parties. It was confirmed at the Hearing that these schemes could be delivered within highway land and therefore although beyond the boundary of the appeal site could be secured by conditions.
36. At the Hearing, the appellant offered to provide the A595 crossing before first occupation of any of the dwellings. National Highways had indicated in its statement that it would prefer the improvements at the A595/ Egremont Road/Homewood Road roundabout to be completed before the crossing. However, given the distance between the two schemes and, in the absence of an objection from National Highways, I agree that the crossing should be provided before the occupation of any of the proposed dwellings. This would accord with the principle of giving priority to pedestrians first, as advocated in the Framework.
37. Whilst many details of the proposal are to be determined as reserved matters, access falls to be determined as part of this application. The 2015 Order means the accessibility to and within the site for vehicles, cycles and pedestrians. This can include the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. However, layout has been reserved for future consideration and the illustrative layout may not be the only way in which the development could be achieved. Therefore, whilst it is

acknowledged that the details will develop, to secure the site's permeability it is essential to establish principles and specific locations that are required to provide access and accessibility at the outline stage.

38. At least five 'active travel' access points have been identified which the appellant assured me at the Hearing could be provided without difficulty. The first is at the proposed A595 crossing point; the others are at Highlands, Winchester Drive, Highfields and High Grove. The indicative parameters plan also showed two potential accesses from the site into the Red Lonning industrial estate. The TA/TAA also referred to another from Laurel Bank where there is a gap in development and a small turning head adjacent to No 86. I see no reason why this should not also be considered as the scheme is built out in accordance with an agreed phasing plan.
39. To provide adequate connectivity for all modes, it is essential that the proposed road connecting the accesses at Caldwell Road and Harras Road, is constructed to an appropriate standard and able to accommodate all vehicles. This, and the location of pedestrian accesses, should be secured as part of the outline planning permission, as they are a fundamental part of the site's accessibility. In addition, prior to or alongside the submission of reserved matters an Access and Movement Parameter Plan should be agreed which would secure active travel routes across the site connecting Highlands with Caldbeck Road, Harras Road with the A595 and Caldbeck Road with Harras Road. Conditions to secure the route through the site, the active travel access points, and connections between them have been agreed by the main parties.
40. Nevertheless, the current proposal provides little prospect of providing a bus service through the site. The nearest bus stops are just beyond the southern tip of the site in Caldbeck Road and there are no bus routes along Harras Road. The Highlands estate currently has no bus service and the area to the south (Hillcrest) is only served by the No 30³. The Arup review specifically referred to the option of connecting Caldbeck Road, through the development and onto the adjacent Highlands, whilst acknowledging that land ownership may constrain the opportunities to do so. However, when this was discussed at the Hearing, it was apparent that these previous constraints have not been overcome.
41. I accept that providing a bus service that would only serve the development's residents is not essential to make the development acceptable in planning terms. However, a route connecting the development's internal distributor road with Highlands would increase the possibility that a bus service could be provided in the future to serve both the development and the surrounding area. The illustrative layout shows a section of shared surface between the internal distributor road and Highlands. It therefore is reasonable to secure the concept of such a link, which could accommodate vehicular traffic, through the imposition of a suitable condition preventing development on land that would be needed for it. The precise extent of such land should be agreed through the reserved matters. However, the requirement to agree these details needs to be set out now, to ensure that the opportunity to provide this link and any benefits that it would bring would not be permanently lost. A condition to this effect is therefore both reasonable and necessary to ensure that the development complies with the Framework's objective of pursuing opportunities to promote sustainable transport.

³ Technical Note Prepared by Vectos on Transport Matters Fig 3.2

42. Even with the provision of suitable active travel links, more actions will be needed to support and encourage future residents to choose to walk, cycle and consider alternatives to using a car for some of their journeys. An effective travel plan should therefore form an essential element to the delivery of the scheme. As part of the Highways and Transportation Statement of Common Ground (SoCG) submitted immediately before the Hearing (dated 7 July 2023), the parties agreed a Travel Plan Addendum (TPA), attached as Appendix 10. This included the requirement for a Travel Plan Coordinator to be appointed prior to first occupation of any of the dwellings. This post would be funded for 2 days/month for the lifetime of the Travel Plan, which was defined as 8 years following first occupation.
43. The TPA went on to set out possible measures including working with residents as they move into the site, providing comprehensive information about active travel and incentivising sustainable travel by offering vouchers. These initiatives would ensure that residents consider the various transport options available to them before they form travel habits which may be difficult to change once established. The TPA included a commitment to work with local schools and employers to promote active travel. This would help to address issues raised by residents particularly concerned about congestion associated with trips to/from school, which would increase with the additional residents from the development.
44. It also set out proposals for a steering group, monitoring and benchmarking, all of which should encourage take-up of active travel options and help to reduce car dependency. All these actions are to be welcomed as they would contribute to modal shift, help reduce emissions and be directly funded by the appellant. However, as the scheme evolves through the submission of the reserved matters, it may be possible to include other measures and therefore final details of an updated TPA (a formal Residential Travel Plan) should be secured by condition. A monitoring fee to ensure compliance has been secured through the S106 agreement.
45. Taking all the above into consideration, I am satisfied that subject to conditions to secure: i) provision of the A595 signalised pedestrian crossing, ii) improvements to Park View underpass, iii) appropriate access points and connectivity, iv) safeguarding of land required to link the development to Highlands, and v) on-going commitments made in the TPA, the proposal would make adequate provision for sustainable transport. Consequently, it would accord with the national and local (adopted and emerging) planning policy objectives to promote increased use of sustainable modes of travel, set out above.

Other Matters

Drainage

46. The topography of Whitehaven leads to rapid run-off after rainfall. The town's drainage system does not always separate surface water and foul drainage. This is known to cause issues with the overflow of sewage into local watercourses, which are of concern to residents and were apparent from my site visit. However, existing problems are a matter for the statutory undertakers and the Environment Agency (EA) and are not for me to address in the context of this appeal.

47. The application was accompanied by a Flood Risk and Drainage Assessment dated June 2018 which was updated in March 2021. The site is located within Flood Zone 1, and it was common ground that an adequate Sustainable Urban Drainage Scheme (SuDS) could be achieved to existing watercourses utilising a scheme of attenuation. This would ensure no increased flood risk on the site or on adjacent land. There were no objections from the Lead Local Flood Authority or the Coastal Defence section of the Council, subject to the imposition of planning conditions to secure a detailed drainage scheme and management scheme, and a construction surface water management plan.

Effects on wildlife

48. Residents value the existing site for its wildlife, including red squirrels, deer and many birds. There was therefore objection to the loss of the habitat and the associated fauna. However, the application was accompanied by a series of documents that addressed ecological matters. An updated ecological appraisal carried out in 2021 and provided a comprehensive and up to date analysis of the site. A detailed condition addressing ecological issues on the site has been agreed by the parties. This should minimise harm to both the flora and fauna on the site. To ensure that external lighting does not adversely affect wildlife, a requirement to agree an appropriate scheme can be secured by condition.
49. The Biodiversity Net Gain assessment and supporting Habitat Management Plan showed that the development would result in a loss of habitat. It will be necessary to address this by requiring mitigation and compensation measures both on and off the site. The means of doing so will need to be agreed prior to the commencement of the development. The intention would be to do so through a condition requiring a detailed Biodiversity Net Gain Plan (BNG), supported by a Project Implementation Plan (PIP).

Habitats sites

50. The appeal site lies within 1.7km of the Solway Firth Special Protection Area (SPA), a large estuarine/marine site which has been designated for its international importance for inshore non-breeding waterfowl and gulls. It is also an important wintering ground for many migratory birds. Amongst the activities which are considered likely to affect its qualifying features are recreational uses of the shore and inshore waters.
51. The appellant's shadow Habitats Regulation Assessment sought to estimate the likelihood of future residents visiting the SPA from the development. Given the limited access to the coast and the proximity of the cliffs to the mean high-water line, it was considered more likely that walkers would use the coast path located on the cliff top, rather than the area where the protected species forage. It therefore concluded that alone there would not be a likely significant effect arising from the proposal. However, when considered in combination with other known developments within the zone of influence, there would be a likely significant effect.
52. It is therefore necessary to undertake an appropriate assessment and consider means of mitigating any harm to the protected habitat. Natural England (NE) have indicated that the provision of homeowner packs providing information about the SPA, its importance and sensitivity, access restrictions, a code of conduct and suggestions of alternative recreational routes would be adequate to provide mitigation in this case. However, this is unlikely to be effective in

perpetuity as new residents move in and out of the area. It has therefore been suggested that information, in the form of signage boards, should also be provided on a more permanent basis within the site. Both these means of mitigation can be secured by imposition of appropriate conditions. I am therefore satisfied that there would be no adverse effects on the integrity of the Solway Firth SPA arising from the development.

Conditions

53. In addition to conditions already referred to earlier, following discussion at the Hearing, I was provided with an updated schedule of suggested conditions agreed by the main parties. I considered these in the light of paragraph 56 of the Framework and advice on the use of conditions set out in the Planning Practice Guidance. I then consulted the main parties on the need for the additional conditions referred to above and some significant amendments to the wording of others. I have taken their comments into account in the final wording. I have made other minor changes for the sake of clarity and precision and re-ordered the conditions to bring topics together in a logical manner.
54. In addition to the standard conditions that relate to outline planning permissions, conditions are necessary to specify the plans which secure access to the site. Although approximate positions of non-vehicular accesses were shown on the indicative parameters plan, I have imposed a condition which makes specific reference to these accesses to provide certainty to their locations. This is justified because these accesses are essential to the acceptability of the development and would ensure that it is adequately connected to the surrounding area. I have also imposed a separate condition requiring the route through the site to connect the two proposed vehicular accesses. The condition will also ensure that it is of an appropriate design standard to accommodate all modes of traffic, including cyclists and larger vehicles that will be servicing the development.
55. Before reserved matters can be fully addressed an Access and Movement Parameters Plan must be agreed which sets out in detail how Active Travel connections will be made across and through the site. This is essential to ensure that the development is permeable and there are adequate connections within the site and between it and the surrounding area. I have imposed a condition to that effect.
56. For the reasons set out earlier, I have included a condition which seeks to safeguard land that would be required to provide a link from the development's internal road to Highlands. This is necessary to ensure that opportunities to promote and provide public transport to the site and the surrounding area are protected in accordance with the Framework.
57. Due to the size of the development, it is proposed to be constructed in phases. A condition requiring agreement to a phasing plan is necessary. This should set out the numbers of dwellings (both market and affordable) to be built in each part of the site and establish areas of open space, play areas and other details relating to non-vehicular accesses and routes. This is essential for the efficient planning and implementation of the development.
58. To reduce flood risk both on the site and downstream it is essential to agree surface water drainage schemes for each phase of the development. Similarly, to prevent pollution and protect human health, it is necessary to assess the

- risks from potential contaminants and implement appropriate remediation measures when necessary. Conditions to secure these are therefore required.
59. Construction Environmental Management Plans and Construction Traffic Management Plans are justified for each phase of the development to ensure that the impact on the environment of construction activities is adequately controlled, disruption in the locality is minimised, and any harmful effects from construction works and traffic are mitigated. Conditions to identify trees and hedges to be retained, and to agree the means of protecting trees and hedges during the construction period, are required in the interests of environmental protection and the long-term character and appearance of the development. Archaeological studies and recording of revealed remains are necessary to protect the area's heritage assets.
 60. The provision of a signal-controlled crossing of the A595 is essential to provide an adequate and safe pedestrian route between the site and the town centre. A condition securing its implementation prior to the occupation of any of the development is justified to encourage walking. Improvements to the A595 Egremont Road/Homewood Road roundabout are required to be completed by the time the development is approximately half built out to prevent significant increased delays on the strategic road network. The wording of the condition includes provision of adequate time to agree its detailed design with National Highways.
 61. Improvements at the Park View underpass and their implementation in the early stages of the scheme's delivery are justified to encourage walking and cycling. The need for a Residential Travel Plan, supported by a Travel Plan Coordinator has been set out earlier, this would be secured for a period of 8 years from first occupation by condition. It is required to ensure that effective measures to encourage use of sustainable modes of travel for all future occupants of the development are actively promoted and implemented.
 62. As the individual access and parking areas for each dwelling do not fall within the defined scope of the reserved matters, a separate condition is required to ensure that no dwelling is occupied before these have been provided.
 63. Construction works should be limited to the daytime and not take place on Sundays or public holidays to protect the living conditions of adjoining occupiers.
 64. To protect wildlife and native flora and prevent invasion of the site by non-native species, an ecological management plan is required for each phase of the development. Similarly details of external lighting need to be controlled in the interests of protected species and the appearance of the development.
 65. The development will result in a loss of biodiversity, as set out in the Biodiversity Net Gain (BNG) Assessment undertaken by Tetra Tech (784-A090070-410 Rev 2, March 2022). A Grampian style condition is therefore necessary as the works to ensure compliance with current legislation must be agreed before the development begins. In this case I am satisfied that the exceptional circumstances for a negatively worded condition are met to prevent serious risk of delay to the delivery of this strategic development. The condition would require details of how sites would be procured whilst providing flexibility as to where these would be located and the BNG delivered.

66. Finally, conditions are required to ensure provision of the homeowner packs and on-site signage relating to the protected habitats of the Solway Firth. These are required by NE, to ensure that there would be no adverse effect on the protected sites. However, as two different means of mitigation have been identified, I have imposed separate conditions for each of them for the sake of clarity.

Planning obligation

67. I have considered the provisions set out in the completed S106 agreement having regard to the statutory requirements of Regulation 122 of the Community Infrastructure Levy Regulations (the CIL Regulations) and the policy tests in paragraph 57 of the Framework.

68. It had been agreed that it would be possible to secure the improvements required to the Main Street/Cleator Moor Road roundabout junction by means of a condition. However, as part of the emerging Local Plan, the Council would prefer to see a more comprehensive junction improvement involving the installation of traffic signals and controlled crossing points. The principle of this alternative scheme is included in the emerging Local Plan Infrastructure Delivery Plan Stage 2 Update. However, as this would be a more costly scheme, it would not be appropriate for the developer to bear the full costs of its implementation. The parties have therefore agreed a mechanism within the planning obligation for establishing and securing an appropriate contribution to these highway improvements.

69. The obligation requires the developer to submit and secure approval of a detailed design of a scheme to improve the Main Street/Cleator Moor Road roundabout junction and to provide a detailed estimate of the cost of its implementation. This would be in general accord with the scheme shown on Drawing No: A090070-410-TTE-00-XX-DR-C-P012-P02. The cost of the agreed scheme will then be paid to the Council who can elect to either deliver the agreed scheme or use the funds as a contribution towards the larger scheme. This obligation requires the Council to deliver one or other of these schemes within 5 years of the date of receipt of payment. This would ensure that the development only contributes to improvements required to mitigate its own effects. I consider this to a fair and reasonable approach to providing the highway improvement required to accommodate the additional traffic on the surrounding highway network.

70. The planning obligation would secure 15% of the dwellings as affordable units with a mix of first homes, rented and share ownership units. It is intended that the rented and shared ownership units will be transferred to a registered provider to secure them as affordable homes in perpetuity. First homes will be marketed by the developer at a 30% discount with an agreed cascade mechanism when the property is subsequently sold. The obligation ensures that the proposal would accord with Policy SS3 of the Core Strategy and would exceed the requirement of Policy H7PU of the Emerging Local Plan.

71. The obligation would secure a total of 7.1 hectares of the site to be laid out as public open space (POS) in accordance with details that will be established through the approval of the reserved matters. All the POS is to be provided prior to occupation of 80% of the dwellings, or on a phase on which the POS is to be provided. The POS is to be managed and maintained in perpetuity by a

- management company in accordance with a scheme approved by the Council. This would ensure compliance with Policy SS5 of the Local Plan.
72. The proposal would lead to the loss of a disused football pitch, contrary to Policies SS4 and DM21 of the Local Plan and Policy SC3PU of the emerging plan. However, the Sports Mitigation Strategy addressed possible alternatives to replacing the existing football pitch. It was subsequently agreed by Sport England that it would be preferable for the development to make a payment of £100,000 in lieu of replacing the disused pitch on site. This would contribute to the provision of an artificial grass pitch at Whitehaven Academy, within 1km of the site. This already has planning permission but cannot be delivered at present due to a shortfall in funding.
73. The obligation secures this financial contribution totalling £100,000 with half the payment prior to occupation of more than 25% of the development and the remainder prior to 75% occupation. This approach is therefore fully justified and would enable the harm caused by the development to be mitigated and to comply with the development plan's objectives to protect and provide adequate facilities for sport.
74. Finally, prior to occupation of any dwellings there would be a financial contribution towards monitoring of the Travel Plan. This is necessary to ensure that the measures are delivered and are an effective means of promoting use of active travel for at least 8 years. A fee of £6,600 was originally offered, based on the methodology set out in the former Cumbria County Council's: Travel Plan and the Planning Process: Guidance for Developers. This would have covered the Council's monitoring costs for 5 of the 8 years of the travel plan. Following the Hearing the appellant agreed to increase the contribution in line with the requirement for the Council to monitor the Travel Plan for 8 years. The completed obligation secures a contribution of £10,560.
75. I am satisfied that all these requirements and contributions are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the appeal proposals. They meet the tests set out in the CIL Regulations and I have therefore taken the obligation into account in my decision.

Conclusion

76. The main parties consider that the most important policies for determining the appeal (namely Policies ST1 and T1 of the Local Plan cited in the Council's decision notice) are out-of-date. They took this approach due to the age of the Local Plan and its adoption prior to the most recent Framework. I agree, insofar as the policies are not entirely consistent with national policy in the Framework primarily because they do not firstly, give explicit priority to pedestrian and cycle movements and secondly, so far as possible, facilitate access to high quality public transport.
77. Nevertheless, I have concluded that the proposal would not conflict with the Local Plan as improvements would be provided to mitigate traffic delays at two junctions. I have also found that, subject to the provision of active travel connections, off-site improvements to encourage walking and cycling, the safeguarding of land that could provide a link to facilitate future public transport provision and a travel plan, the proposal would accord with the objectives of the Framework in respect of sustainable transport. In addition,

the proposal would comply with the emerging local plan's transport policies, which place increased emphasis on modal shift and the promotion of more sustainable travel.

78. The proposal would contribute to the Framework's objective of significantly boosting the supply of housing, a proportion of which would be affordable homes. In doing so it would provide notable social and economic benefits to the area.
79. I am satisfied that all other matters raised in relation to the proposal, including those of concern to interested parties, can be addressed through the imposition of conditions or appropriate measures and mitigation has been secured through the planning obligation.
80. This leads me to conclude that the proposal complies with the local plan as a whole and there are no other considerations that indicate that the proposal should not be determined accordingly.
81. The appeal should therefore be allowed.

Sheila Holden
INSPECTOR

APPEARANCES

FOR THE APPELLANT

Gwion Lewis KC	Landmark Chambers
Mike Aston FCIHT	Vectos
Robert Gardner BSc (Hons) MA MRTPI	Director – Avison Young
Katherine Smith BSc (Hons) MA MRTPI	Associate Director – Avison Young
David West MEnv Sci (Hons) CEnv MCIEEM	Associate Director – Tetra Tech
Jonathan Behan	Planning and enabling Manager – Homes England

FOR THE LOCAL PLANNING AUTHORITY

Nick Hayhurst BA (Hons) BTP MRTPI	Head of Planning and Place
Shamus Giles	Lead Office – Highways Development Management
Chris Hoban	Strategic Planning Policy Manager

INTERESTED PERSONS

J Ghayouba	Ward Councillor and Town Councillor
G Roberts	Ward Councillor and District Councillor
M Gracey	Local resident
M Lowrey	Local resident
D Forster	Local resident
K Heddle	Local resident
L Willis	Local resident
D Todhunter	Local resident

DOCUMENTS SUBMITTED AT AND AFTER THE HEARING

1. Summary of S106 planning obligation
2. Updated list of key plans and drawings
3. Updated schedule of suggested conditions agreed between the appellant and the Council
4. Statement on emerging local plan policies
5. Updated and completed S106 planning obligation (dated 15 August 2023)

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than FIVE years from the date of this permission or the expiration of TWO years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than FIVE years from the date of this permission.
- 3) For each phase of the development details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Drg No. A090070-410 001 Rev.B – Site location plan
 - Drg No. A090070-P002 – Harras Road Site Access Junction Option 1
 - Drg No. VN232529 – D102 Rev.A – Caldbeck Road Access
- 5) Prior to or alongside the submission of the reserved matters full details of a road to accommodate movements by all traffic (vehicular and non-vehicular) connecting the proposed accesses at Harras Road and Caldbeck Road shown on the approved plans shall be submitted to and approved in writing by the local planning authority.
- 6) Prior to or alongside the submission of the reserved matters full details of non-vehicular accesses in accordance with the locations shown on Drg No. A090070-410 TTE 00 XX DR UD 04 Rev C Parameters Plan, shall be submitted to and approved in writing by the local planning authority:
 - Adjacent to the proposed A595 signalised crossing (to be provided in accordance with Condition 20);
 - Highlands;
 - Winchester Drive;
 - Highfields;
 - High Grove;
 - From 2 points within the Red Lanning industrial estate.
- 7) Prior to or alongside the submission of the reserved matters a detailed Access and Movement Parameters Plan shall be submitted to and approved in writing by the local planning authority. The Access and Movement Parameters Plan will demonstrate how Active Travel Routes are to be provided between the Active Travel Connections on:
 - Highlands and Caldbeck Road;
 - Harras Road and the A595; and
 - Caldbeck Road and Harras Road.

The reserved matters shall be designed to be compatible with the approved Access and Movement Parameters Plan.

- 8) No layout proposed as part of the reserved matters shall include built development that would preclude the construction of a link, designed to appropriate standards for use by all traffic, between the internal road serving the development (set out in Condition 5) and Highlands.
- 9) Prior to the commencement of each phase of the development, a Phasing Plan shall be submitted to and approved in writing by the local planning authority. The Plan will provide the following information:
- The boundary of the land within that phase, previous and subsequent phases;
 - The number of market dwellings in that phase:
 - The number of affordable dwellings in that phase:
 - The location, boundaries and quantum of public open space, play areas and buffer planting in that phase;
 - The location of pedestrian, cycle and vehicular accesses and routes serving that phase.
- 10) Prior to the commencement of each phase of the development, a Surface Water Drainage Scheme for that phase shall be submitted to and approved in writing by the local planning authority. The scheme to be submitted shall be based on the 'hierarchy of drainage options' set out in the National Planning Practice Guidance with evidence of an assessment of the site conditions and including how the scheme shall be managed after completion. The scheme must be designed in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and shall not provide for any surface water to be discharged into the public sewerage system either directly or indirectly.
- The scheme shall be designed in accordance with the principles set out in the Flood Risk and Drainage Assessment Revision C, dated March 2021, proposing surface water discharging to Midgey Gill and Bedlam Gill. Any scheme requiring discharge of surface water into Bedlam Gill must include a condition survey of the culverted sections of Bedlam Gill.
- The scheme shall be implemented and thereafter retained and managed in accordance with the approved details.
- 11) Prior to the commencement of each phase of the development a Remediation Strategy designed to deal with the risks associated with ground contamination within the area covered by that phase shall be submitted to and approved in writing by the local planning authority. The Strategy must include the following:
- A preliminary risk assessment which identifies:
 - All previous uses;
 - All potential contaminants associated with the those uses;
 - A conceptual model of the site indicating sources, pathways and receptors;
 - Potentially unacceptable risks arising from contamination at the site.
 - A site investigation scheme based on the outcome of the preliminary risk assessment to provide information for a detailed assessment of

the risk to all receptors that may be affected, including those beyond the boundaries of the site.

- The results of the site investigation and the detailed risk assessment and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required including how and when they are to be undertaken.
- A verification plan providing details of the data that will be collected to demonstrate that the works set out in the remediation strategy are complete and identifying any requirements for long term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The measures in the approved Remediation Strategy for each phase of the development must be carried out in accordance with the approved details and timetable. Following completion of the measures identified in the approved remediation scheme a validation report for that phase prepared by a suitably qualified land practitioner must be submitted to and approved in writing by the local planning authority before that phase of the development is occupied.

- 12) If during the construction of a particular phase of the development, contamination not previously identified is found to be present at the site then no further development on that phase shall be carried out until the developer has submitted to and obtained written approval from the local planning authority for a Supplementary Remediation Strategy for the contamination that has been identified. The Supplementary Remediation Strategy shall be carried out as approved before that phase of the development is resumed or continued (unless otherwise agreed in writing by the local planning authority).
- 13) Prior to the commencement of each phase of the development a Scheme of Intrusive Site Investigation shall be undertaken and a report of the findings from the Intrusive Site Investigation together with details any necessary remedial works and/or mitigation measures shall be submitted to and approved in writing by the local planning authority. The Investigation shall be designed and undertaken by a suitably qualified person to adequately and properly assess the ground conditions of the site and establish the risks posed to the development by past coal mining activities. The remedial works and/or mitigation measures must then be implemented in accordance with the approved details and a validation report for each phase must be submitted to and approved in writing by the local planning authority.
- 14) Prior to the commencement of each phase of the development a Construction Environmental Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the local planning authority. The CEMP shall provide for:
 - Details of the means of access and parking for construction traffic and vehicles of site operatives and visitors;
 - Procedures for the loading and unloading of plant and materials;
 - Details of storage of plant and materials used in constructing the development;

- Details of measures to control the emission of dust, emissions, sediments and pollutants arising during construction of the development;
- A scheme for recycling/disposing of waste resulting from construction works;
- A scheme for the management of surface water drainage during the construction period;
- Details of the erection and maintenance of security hoarding where appropriate;
- Wheel washing facilities.

The approved CEMP for each phase of the development shall be adhered to throughout the construction period of that phase.

15) Prior to the commencement of each phase of the development a Construction Traffic Management Plan (CTMP) for that phase shall be submitted to and approved in writing by the local planning authority. The CTMP shall include details of:

- The construction of the site access and the creation, positioning and retention of associated visibility splays;
- Details of access gates to be hung to open away from the public highway no less than 10m from the carriageway and incorporating appropriate visibility splays;
- Proposed accommodation works and where necessary a programme for their subsequent removal and reinstatement of street furniture where removed and verges where damaged during construction works;
- Details of carriageway improvements, construction specification, strengthening, maintenance and repair commitments if necessary as a consequence of the development;
- Details of proposed crossings of the highway verge;
- Details of areas to be retained for vehicle parking, manoeuvring, loading and unloading during the construction of the development;
- Details of recommended routes for construction traffic accessing and leaving the site and how this will be communicated to drivers;
- Details of the management of junctions and crossings of the public highway and other rights of way/footway affected during the construction period;
- Details of the scheduling and timing of movements, temporary warning signs and vehicles requiring a banksman/escort.

16) Notwithstanding the information contained within the Arboricultural Impact Assessment (Outline Planning) dated May 2018, by TEP, the Reserved Matters for each phase shall include:

- A plan to a scale and level of accuracy appropriate to that phase, showing the position of every tree and hedge within that phase and on land adjacent to that phase that could influence or be affected by the development proposed within it, indicating which trees and hedges are to be removed;

- In relation to every tree and hedge identified for that phase a schedule listing:
 - Information as specified in section 4.4 of the British Standard BS5837 - Trees in relation to design, demolition and construction – Recommendations;
 - Any proposed pruning, felling or other work;
 - In relation to every existing tree and hedge identified for that phase to be retained on the plan referred to above, details of:
 - The position of root protection areas which could affect or be affected by development of the site;
 - The position of root protection areas shown overlaid on a proposed detailed site layout plan for the phase being considered for approval;
 - Any potentially damaging activities proposed near the trees and hedges such as alterations to ground levels and of the position of any proposed excavation that might affect the root protection area (in accordance with paragraph 5.4.2 of British Standard BS5837);
 - All appropriate tree and hedge protection measures, including barriers, required before and during construction of the development (in accordance with section 5.5 of British Standard BS5837).
- 17) Prior to the commencement of each phase of the development an Arboricultural Method Statement (AMS) for that phase detailing how works are to be undertaken within the root protection area of retained trees and hedges shall be submitted to and approved in writing by the local planning authority. The AMS shall include details of:
- Existing structures and hard surfacing to be removed;
 - Installation of temporary ground protection;
 - Facilitation tree works;
 - Excavations and requirements for specialised trenchless techniques for the installation of services;
 - Installation of access roads (materials and design) and new hard surfacing;
 - Specialist foundations;
 - Retaining structures to facilitate changes in ground levels;
 - Preparatory works for new landscaping;
 - Auditable/audited system of arboricultural site monitoring, including a schedule of specific site events that require input or supervision by a qualified arboriculturalist;
 - A programme for the phasing of the works;
 - Contact details of relevant parties.

The AMS shall be carried out as approved throughout the construction period.

- 18) Prior to the commencement of each phase of the development a programme of archaeological work for that phase shall be carried out in accordance with a written scheme of investigation which has previously been submitted to and approved in writing by the local planning authority. The written scheme of investigation shall include:
- An archaeological evaluation;
 - An archaeological recording programme the scope of which will depend upon the results of the evaluation.
- 19) Where significant archaeological remains are revealed by the work undertaken pursuant to Condition 18, there shall be carried out within one year of the completion of the archaeological works that have revealed the remains, a post-excavation assessment and analysis, the preparation of a site archive ready for deposition at a store, the completion of an archive report, and the preparation and submission of a report of the results for publication in a suitable specialist journal.
- 20) No dwelling within any phase of the development shall be occupied until a signal-controlled crossing of the A595, which is deliverable within the public highway, is provided and is fully operational. The signal-controlled crossing shall be designed in broad accordance with the details shown on Drg No. VN232529-D-100 Rev B.
- 21) Prior to the occupation of the 200th dwelling hereby permitted, or the expiration of 4 years after the first unit is occupied, whichever comes first, no further dwellings shall be occupied until improvements have been made to the A595/Egremont Road/Homewood Road roundabout junction and such improvements are fully operational and available to all road users.

Unless, by either of the points in time referred to above, a scheme to meet the same need has already been constructed, or is being constructed by another party. The improvements, which shall be deliverable within the public highway, shall be constructed in full accordance with a scheme that must be submitted to and approved in writing by the local planning authority before they are delivered. The scheme must be in broad accordance with Drg No. A090070-410-TTE-00-XX-DR-C-P013-P02 and must also include:

- Full design details of how the scheme interfaces with the existing highway alignment, including carriageway markings;
 - Full construction details;
 - Confirmation of compliance with current standards and policies as set out in the Design Manual for Roads and Bridges;
 - An independent Stage 1 and Stage 2 Road Safety Audit carried out in accordance with current standards and advice notes.
- 22) Prior to the occupation of any dwelling hereby approved, full design details of improvements to Park View underpass and junction shall be submitted to and approved in writing by the local planning authority. The scheme, which shall be deliverable within the public highway, shall be broadly in accordance with Drg No VN232529-D101 Rev A.

Prior to the occupation of the 100th dwelling hereby permitted, the scheme shall be constructed as approved and fully operational.

23) No dwelling hereby permitted shall be occupied until the means of vehicular access to serve that dwelling has been constructed in accordance with the approved plans.

24) Prior to the commencement of the first phase of the development, a Residential Travel Plan (RTP) shall be submitted to and approved in writing by the local planning authority. The RTP shall be in accordance with the principles and parameters set out in the Framework Travel Plan (FTP) dated June 2018 and the Travel Plan Addendum (TPA) dated July 2023. The RTP shall include details of objectives, outcomes, measures to be delivered and how these will be promoted and monitored.

No dwelling hereby permitted shall be occupied until a Travel Plan Coordinator (TPC) has been appointed. The TPC shall be responsible for the on-going implementation, delivery, monitoring and promotion of the RTP including day-to-day management of the initiatives to secure increased use of active travel and reduced dependence on car travel.

The contact details of the TPC shall be notified in writing to the local planning authority upon appointment and written notification shall be provided of any changes to those details or personnel.

The RTP shall remain in force and a TPC shall be in post for a period of not less than 8 years from the occupation of the first dwelling hereby permitted.

25) No construction work associated with the development hereby approved shall be carried out outside the hours of 0730-1800 Monday to Saturday and at no time on Sundays or public holidays.

26) Prior to the commencement of each phase of the development and Ecological Management Plan (EMP) shall be submitted and approved in writing by the local planning authority. The EMP shall contain details and method statements for the mitigation and compensation measures described below in accordance with Section 6.3 of the Tetra Tech Ecological Appraisal Revision 2, dated September 2021:

- Provision of maintenance of a 5-10m wide unlit buffer between any existing woodlands and any new housing and the protection of the retained woodland habitats from light disturbance through the use of a wildlife-friendly lighting scheme during the construction phase of the development;
- Any trees proposed for removal should be subject to an up-to-date Preliminary Roost Level Assessment prior to any removal taking place;
- A pre-works badger survey should be undertaken at least three months prior to the development commencing;
- Any trees proposed for removal should be checked for squirrel dreys prior to removal commencing. These checks should be conducted at least three months prior to the works commencing in order to allow for mitigation measures if red squirrels are discovered to be breeding on the site;
- Habitat/vegetation clearance should be undertaken outside the bird nesting period (March to September inclusive) or be immediately preceded (no more than 48 hours in advance of the works being commenced) by a check carried out by a suitably qualified ecologist;

- Invasive Species Method Statements should be produced and implemented control and eradicate invasive plant species on site.
- Before site clearance works commence, any areas covered by dense vegetation should be checked by the Ecological Clerk of Works (ECoW) for presence of hedgehog and other species.
- The ECoW should deliver a Toolbox talk to site personnel regarding best practice in respect of ecological issues in advance of development commencing.

The development shall be carried out in accordance with the approved EMP for that phase.

- 27) No dwelling within any phase shall be occupied until a scheme for external lighting proposed within that phase has been submitted to and approved in writing by the local planning authority. The scheme shall:
- Identify any parts of the site within the phase that are used by bats for foraging, commuting or roosting;
 - Detail how and where external lighting will be installed;
 - Include lighting contour plans and technical specifications.

All external lighting shall be installed in accordance with the approved details and retained as approved.

- 28) Prior to the commencement of each phase of development, a Biodiversity Net Gain Strategy (BNGS) and a Project Implementation Plan (PIP) for that phase shall be submitted to and approved in writing by the local planning authority, unless a BNGS and PIP have previously been submitted to and approved in writing by the local planning authority for the whole site. The BNGS shall detail proposals to redress loss of biodiversity and the mitigation strategy proposed shall include all on and off-site habitats required to deliver a net gain. The BNGS shall use the Biodiversity Metric 3.0 Calculation Tool unless an amended statutory Biodiversity Metric Calculator associated with the Environment Act 2021 becomes mandatory.

The PIP shall detail the delivery of ecological BNG mitigation and compensation, in accordance with the approved BNG strategy. The PIP shall include timescales for implementation, and an ongoing management and maintenance plan. The BNGS and PIP shall be implemented, managed and maintained in accordance with the approved details.

On completion of each phase, an update of the BNG Strategy shall be submitted to the local planning authority to demonstrate how a BNG has been delivered for that phase.

- 29) No dwelling in any phase of the development shall be occupied until details of homeowner information packs to be provided to the occupants of every dwelling in that phase have been submitted and approved in writing by the local planning authority. The homeowner information packs shall provide information about the Solway Firth SPA and include (but not be limited to) the information set out on page 20 within section 6.1.1 of the Report to inform the Habitats Regulation Assessment by Tretra Tech dated September 2021. The first occupants of each dwelling shall be provided with the information pack within one month of taking occupation.

- 30) No dwelling in a phase of the development shall be occupied until signage has been installed within that phase in accordance with details that have previously been submitted to and agreed in writing by the local planning authority. The signage to be provided shall include information about the Solway Firth SPA referred to in Condition 29 and the steps that should be taken by residents to help preserve it. The signage shall thereafter be retained as approved.

End of Schedule of Conditions