

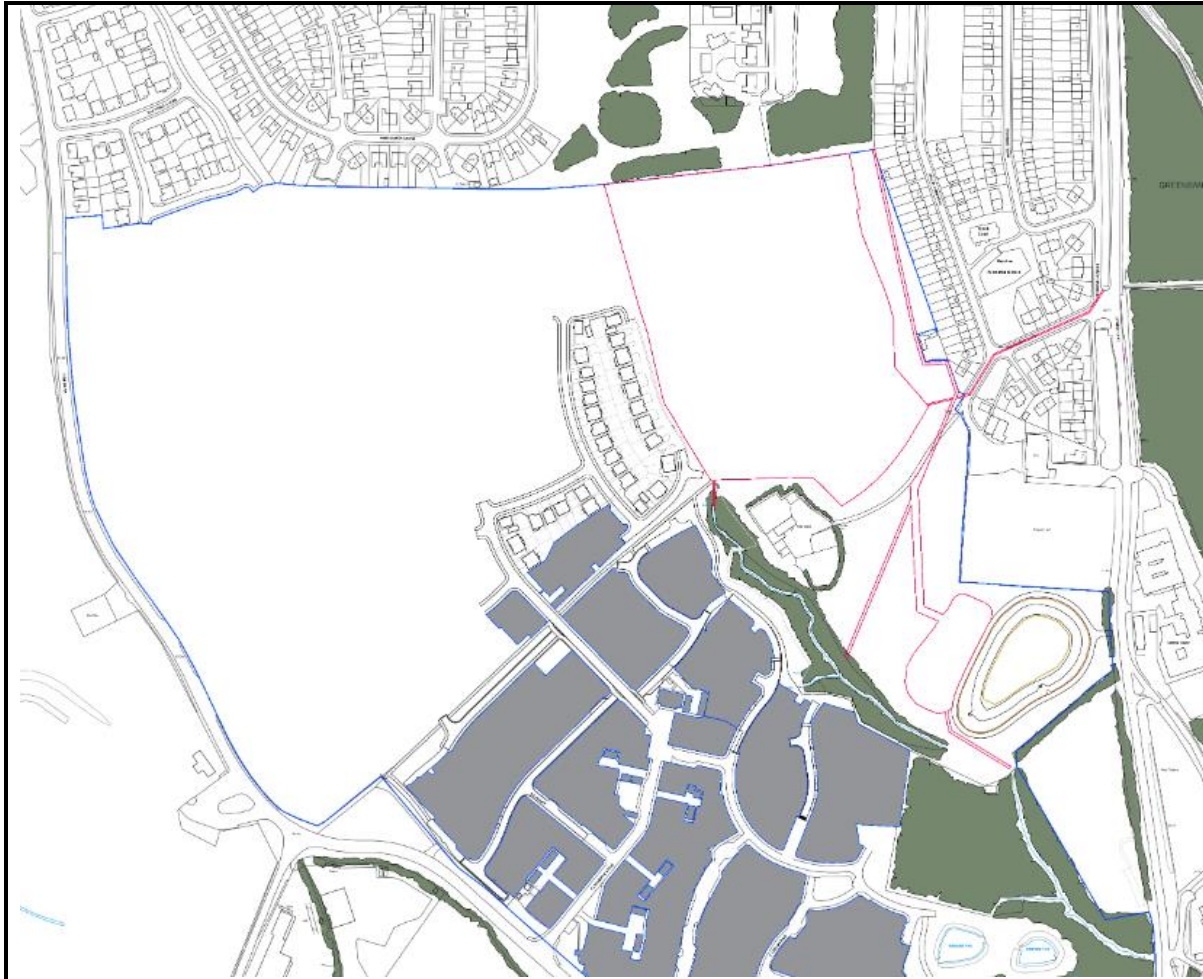


To: PLANNING PANEL

Development Management Section

Date of Meeting: 26/10/2022

Application Numbers:	4/22/2217/0F1
Application Type:	Full
Applicant:	Story Homes
Application Address:	LAND TO THE WEST OF VALLEY VIEW ROAD, WHITEHAVEN
Proposals	IMPORTATION & DEPOSIT OF EARTH MATERIAL TO REPROFILE EXISTING GROUND LEVELS/CONTOURS; INSTALLATION OF SURFACE WATER DRAINAGE INFRASTRUCTURE INCLUDING INSTALLATION OF FOUL WATER DRAINAGE INFRASTRUCTURE
Parish:	Whitehaven
Recommendation Summary:	Approve subject to conditions



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Reason for Determination by Planning Panel:

The application is brought for consideration by Members of the Planning Panel as objections to the development were raised by Whitehaven Town Council and the application is recommended for approval.

Site and Location:

The Application Site comprises a parcel of agricultural grazing land located on the southern periphery of Whitehaven.

The Application Site is bounded by the approved Edgehill Park residential development, which is currently under construction and an existing detached dwelling known as High House to the west; the existing housing estate known as Greenbank to the east; the existing

housing estate known as Wastwater Road to the north; and, existing surface water infrastructure and agricultural land and planting to the south.

Public Right of Way, footpath no. 431031 runs through the centre of the Application Site and connects Edgehill Park and Greenbank.

The Application Site is enclosed by a combination of timber fencing and vegetation.

The Application Site is located in Flood Zone 1.

Proposal:

Earthworks

The Applicant has accumulated circa 16,000m³ of clean surplus earth arisings from its ongoing and adjacent Edgehill Park development.

It is proposed to spread the earth across the Application Site to create a development platform for any future residential development on the Application Site.

The existing land levels shall be lowered and raised by up to a few metres in places.

Drainage Works

The Applicant proposes the construction of a new SUDS pond and connecting swale and outfall on the Application Site. The pond is sized to accommodate any future residential development on the Application Site.

A foul water sewer is proposed in Gameriggs Road to create a future gravity connection to the existing foul infrastructure adjacent to St Bees Road to serve any future residential development on the Application Site.

Two new permanent land drains are proposed to protect the Application Site and adjacent properties on Valley View Road from any overland surface water flow that occurs during high rainfall. The land drain will drain by gravity to the existing ravine to the south of the Application Site. At the north boundary a land drain and 300mm high clay bund are proposed to channel water around the western edge of the site into the ravine to the south.

Revisions and additional information have been submitted during the course of the planning application.

These include the following:

- The revision of the design of the proposed land drainage scheme to include a hybrid approach of permeable and impermeable membranes are adopted to allow surface water to flow and not pool in sensitive areas near to existing and future residences.
- The submission of the following:

- Surface Water Management Plan Phase 1;
- Surface Water Management Plan Phase 2;
- Silt Management Report Plan; and,
- Construction Method Statement.

In respect of silt management, two phases of management are proposed.

Phase 1:

This includes the creation of temporary bunds on the north and eastern platform edges to channel surface water to a temporary settling pond. From there water shall pass through a silt control headwall comprising a Hy-Tex Ultra dewatering silt bag and discharge via a v-shaped ditch into the existing ravine.

In the unlikely event of overflow from the temporary settling pond, an overflow pipe shall carry overflow to the permanent SUDS pond, which shall also have installed a temporary check dam and a Hy-Tex Ultra dewatering silt bag prior to outfall to the existing watercourse.

The Hy-Tex Ultra dewatering silt bags shall be in operation at all times during the construction works. To enable this, each pond set up shall include a second silt bag change over connection and area to lay a second bag.

Phase 1 includes the creation of land and carrier drains that are to take water entering the Application site and route this around the western and eastern edges to the existing ravine. Two permanent silt trap catch pits are proposed at the end of each drainage leg. These shall be monitored every month or after every high rainfall event for silt deposits and silt shall be removed if found.

Phase 2:

Surface water construction measures include a network of v-shaped ditches within the main development platform that shall be created and used in accordance with progression of the main earthworks.

Two straw bale check-dams are to be installed in the v-shaped ditch as to slow flow and catch sediment in the channel before the water enters the proposed temporary settling pond.

Monitoring and Management:

The Applicant is to monitor the temporary settling pond and permanent SUDS pond for silt build up. Should a build-up be observed that risks silt being transported downstream a submersible pump will be used to pump out the pond and deposited sediment. This shall then be deposited in a location away from watercourses where connections for flow do not exist.

A Silt Management Reporting Plan is proposed to ensure that the efficiency and effectiveness of the silt management measures is monitored and managed appropriately during the development to help protect against untreated surface water entering drains in the vicinity of the Site.

Directly Relevant Planning Application History:

The Applicant has recently submitted the following Full Planning Application on the Application Site:

Application Ref. 4/22/2332/0F1 – Full Planning Application for 109 dwelling houses and associated infrastructure including landscaping, open space, access, highways and drainage.

This application is subject to continued consultation/review and is yet to be determined.

Consultation Responses

Whitehaven Town Council

Express concerns from a mining perspective.

Drainage issues would cause severe disruption to Valley View Road and the Greenbank estate.

Cumbria County Council – Highways and LLFA

Highways

The Highway Authority has no objection to the proposed development as it is considered that the proposal does not affect the highway.

LLFA

Initially raised queries in relation to the proposed drainage design including: the use of an impermeable membrane to the land drain; the silt control measures to the proposed land drain; and, the capacity of the proposed drainage attenuation basin and swale to accommodate the surface water from the separately proposed residential development.

Following receipt of revised plans and details, confirmed no objections to the proposals subject to the imposition of a planning condition requiring that the highway drain shall be protected and the silt traps and other silt reducing techniques be installed prior to the movement of earth commencing.

United Utilities

Land drainage or subsoil drainage water must not be connected into the public sewer system either directly or by way of private drainage pipes.

Environment Agency

Contamination

The previous use of the Application Site presents a high risk of contamination that could be mobilised during construction to pollute controlled waters.

Controlled waters are particularly sensitive in this location because the proposed development site is located upon a Highly Vulnerable Secondary A aquifer

The application demonstrates that it will be possible to manage the risks posed to controlled waters by this development; however, further detailed information is required before built development is undertaken.

Consider that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission and propose the imposition of the planning condition requiring the submission of a remediation strategy completed by a competent person.

Silt Management

Initially raised queries in relation to the proposed silt management details; however, following the submission of additional information confirmed that the risk of silt contamination to the receiving watercourse has now been adequately mitigated and withdrew request for a planning condition requiring a scheme to treat and remove suspended solids from surface water run-off during construction works.

Confirm that they would not provide detailed prescriptive guidance as to an exact method for silt management, would expect the developer to avoid causing pollution and would step in with enforcement action if necessary.

Confirm that whilst the points raised by Fish Legal in their correspondence seem valid, would not provide this level of detailed guidance in response to a planning application and confirm their intention to meet with the Applicant on site to discuss the proposed measures.

Confirm that the Environment Agency is currently preparing a case against Story Homes for previous silt pollution and that this is on-going.

Copeland Flood and Coastal Defence Engineer

As a Flood Risk Assessment has not been submitted.

Initially raised queries relating to the design of the proposed land drain; however, confirmed the design as acceptable following the receipt of revised details.

Outlines that the Construction Method Statement includes a section about silt management which has been an on-going concern for the downstream watercourse and Mirehouse Ponds. States that there is a lack of clarity in the drawings, with drawn features not matching the key.

The Silt Management Plan states that states that temporary bunds on the north and eastern platforms will channel surface water to the temporary settlement pond; however, it does not appear that the water from the eastern platform would be directed in this direction. An overflow system is to be put in place to the permanent SUDS pond with a temporary check dam and a dewatering silt bag. Monitoring of both ponds is to be undertaken and if a build-up of silt is observed, it is proposed to pump out and deposit in a location away from the watercourse. It isn't however stated where this location will be, or how it wouldn't just result in recycling the silt back into the system.

An assessment of downstream flood risk should be considered at this stage. The northern section of land drain is picking up water from off site, so would not normally be considered as part of the greenfield calculations, although it would form part of the same sub catchment, as the Application Site. The eastern section of land drain is picking up water that would be included in greenfield calculations but is draining to a different sub catchment. The watercourses that are known to be present drain to the Pow Beck catchment that head south, but greenfield runoff may drain to the Pow Beck catchment heading north. If not picked up at this stage, questioned if will it be included in the FRA for the 109 houses?

Copeland Environmental Health Officer

No objections.

Cumbria County Council – Countryside Access

Public Right of Way FP413031 is located adjacent to the Application Site.

Propose the imposition of a planning condition requiring that Public Right of Way FP413031 is not obstructed during or after the completion of the proposed development.

Cumbria County Council – Historic Environment Officer

The applicant has commissioned an archaeological geophysical survey of the site. The results of the survey have identified a small number of features of potential archaeological interest. These features are considered to reflect archaeological remains of local significance which will be disturbed by the construction of the proposed development.

Recommend that in the event planning consent is granted, the site is subject to archaeological investigation and recording in advance of development.

This work should be commissioned and undertaken at the expense of the developer and can be secured through the inclusion of a suitably worded planning condition.

Health and Safety Executive

The Application Site does not lie within the consultation distance (CD) of a major hazard site or major accident hazard pipeline.

The Coal Authority

No objections.

Natural England

No consultation response received.

Ramblers

No consultation response received.

Public Representations

The application has been advertised by way of a site notice, press notice and neighbour notification letters.

Representations have been received from three parties in objection to the Full Planning Application.

These parties include Cllr Stevens and the members and legal representatives of Haigh Angling Club (Mirehouse Ponds).

The material planning issues raised comprise the following:

Initial Application Documentation

There is no reference to the risks and issues Haig Angling Club have reported in excessive silt build up in Mirehouse Ponds, caused throughout the construction of the Edgehill and Wilson Howe developments, which has made the ponds shallow and has had knock-on environmental effects and compromised the fishery.

Mirehouse Ponds are an important asset that serves the local community.

The Environment Agency has mounted a regulatory investigation into the silt pollution, but Copeland Borough Council has done relatively little to enforce or to ensure that there has been a proper management plan in place.

Moving the volume of material will most certainly present a significant risk to Mirehouse Ponds if the work is undertaken during periods of sustained rain.

It is unclear what controls will be put in place to avoid further silt entering Mirehouse Ponds.

Expert Hydromorphologist, Dr Peter Stone has reviewed the planning application. His report dated June 2022 identifies that there are serious omissions in the application details. These include the absence of a Surface Water Management Plan and a drainage plan; there is no assessment of water management risks and impacts; there are high risks of run off from the large areas of material spread on the phase 4 area without full consideration of how this will be managed; land drainage will simply move the problem of sediment on to the stream network and into the ponds (none of which has been considered). Crucially, no sediment management plans have been submitted.

The Environment Agency will need to be involved in assessing flood risk but also, crucially, where permits will be required to discharge material from the site.

Furthermore, there are clear risks of “alone” or “in-combination” environmental impacts that will need to be included in a proper, updated Environmental Statement. The Construction Method Statement would also need to be updated.

There is no reference to why another SUD's ponds is required. It can only be assumed that the current one was built big enough in the first place, this has been proven by the fact that Story Homes opened the cover to the drain when the SUD's was looking to break its banks due to the volume of water after heavy rain, which deposited more silt in Mirehouse Ponds.

The initial phases of the Edgehill and Wilson Howe development were improperly drained and the subsequent flooding into Mirehouse, especially the ponds is an ongoing problem, which has still not been resolved.

Public Footpath No. 431031 has been inaccessible for 4 years and there is no sign of it being reinstated any time soon. A date needs to be provided when it will be open again. Flooding

is taking place around the footpath during the winter months, due to improper placement of drainage ponds and needs to be addressed.

There are no references to the possible mine workings under the Application Site. There is reason to believe that tunnels were run under this area. The importation of earth material may seriously affect any load on mine tunnels and does not appear to have been taken into consideration.

The proposed surface water attenuation basin is improperly sited and will lead to permanent water logging of the adjacent sports pitch. It will potentially cause serious flooding during the months of heavy rain (October to April).

The proposed swale does not take into account the springs which appear during the months of heavy rain or address the considerable water run-off which will occur as a result of these works.

The implied assumption in the wording of this Planning Statement, that planning permission will be granted for Phase 4 is unprofessional.

Additional Information

The planned work continues to present a considerable threat to Mireshouse Ponds and that the new documents submitted since Dr Peter Stone's report dated June 2022 do not address the fundamental absence of proper management controls of silt.

The Construction Management Statement has added several paragraphs which simply refer to the drawings for the silt management; the plans in turn do not address the issues we have outlined. There are new inclusions in the plans which are of particular concern. For instance, a 4m high bund is proposed. There is no explanation as to where that would "funnel" the run-off in a storm. If it flows down the marked ditches, one would expect the small settling pond to which it adjoins to be rapidly overtopped.

There are also no measures for silt management on the orange land drain, which just joins straight into the watercourse.

The Silt Management Reporting Plan briefly mentions monitoring but little else and is heavily self-referential but without any detail. This is best illustrated by the "Spill Response" procedure which refers back without any explanation of what such a response might entail. There is no indication of what will be done in an emergency; no evidence that a silt-buster or similar equipment will be used. This must be seen in the context of previous reported discharges of many tonnes of silt in earlier phases, with evidence only of a reduced response plan.

There is no indication of how the silt ponds will be drained and how the silt will be removed to prevent filling and overtopping; no management plan for extreme wet weather which is clearly more common than ever.

There is no updated Environmental Statement and no evidence that the EA have or will be involved in this recent application.

Development Plan Policies:

Copeland Local Plan 2013-2028 (Adopted December 2013):

Core Strategy (CS):

Policy ST1 – Strategic Development Principles

Policy ST2 – Spatial Development Strategy

Policy ST4 – Providing Infrastructure

Policy ER7 – Principal Town Centres, Local Centres and other service areas: Roles and Functions

Policy SS1 – Improving the Housing Offer

Policy SS2 – Sustainable Housing Growth

Policy SS3 – Housing Needs, Mix and Affordability

Policy SS5 – Provision and Access to Open Space and Green Infrastructure

Policy T1 – Improving Accessibility and Transport

Policy ENV1 – Flood Risk and Risk Management

Policy ENV3 – Biodiversity and Geodiversity

Policy ENV4 – Heritage Assets

Policy ENV5 – Protecting and Enhancing the Boroughs Landscapes

Development Management Policies (DMP):

Policy DM10 – Achieving Quality of Place

Policy DM11 – Sustainable Development Standards

Policy DM24 – Development Proposals and Flood

Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species

Policy DM26 - Landscaping

Policy DM27 – Built Heritage and Archaeology

Policy DM28 – Protection of Trees

Emerging Copeland Local Plan (ELP).

The emerging Copeland Local Plan 2017-2038 comprising the Publication Draft (January 2022) and Addendum (July 2022) have recently been submitted for examination by the Planning Inspector.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

Given the stage of preparation of the emerging Copeland Local Plan 2017-2038 some weight can be attached to policies where no objections have been received or objections have been resolved. The Publication Draft (January 2022) and Addendum (July 2022) provides an

indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the NPPF.

Policy DS1PU - Presumption in favour of Sustainable Development
Policy DS2PU - Reducing the impacts of development on Climate Change
Policy DS3PU - Settlement Hierarchy
Policy DS4PU - Settlement Boundaries
Policy DS6PU - Design and Development Standards
Policy DS7PU - Hard and Soft Landscaping
Policy DS8PU - Reducing Flood Risk
Policy DS9PU - Sustainable Drainage
Policy DS10PU - Soils, Contamination and Land Stability
Policy H1PU - Improving the Housing Offer
Policy H2PU - Housing Requirement
Policy H3PU - Housing delivery
Policy H4PU - Distribution of Housing
Policy H5PU - Housing Allocations
Policy H6PU - New Housing Development
Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity Strategic
Policy N2PU - Local Nature Recovery Networks Strategic
Policy N3PU - Biodiversity Net Gain
Policy N5PU - Protection of Water Resources
Policy N6PU - Landscape Protection
Policy BE3PU - Archaeology

Other Material Planning Considerations

National Planning Policy Framework (NPPF).
Planning Practice Guidance (PPG).
National Design Guide (NDG).
The Conservation of Habitats and Species Regulations 2017 (CHSR).
Cumbria Development Design Guide (CDDG).

Assessment:

Principle of Development

The proposed development comprises the movement of circa 16,000m³ of clean surplus earth arising from the ongoing and adjacent Edgehill Park development to alter the levels of part of the Application Site to create a level development platform and drainage infrastructure for any future residential development on the Application Site.

The proposed development will result in reuse of a large quantity of clean surplus earth material, which would otherwise require disposal to a more distant location. This would require a considerable number of heavy vehicle movements with their associated carbon

emissions, impacts upon the public highway network and impacts upon the amenity of local residents.

The proposed development will help create space on the existing Edgehill Park development for the safe ongoing construction of that development.

The Application Site is allocated for residential development under Site Reference HWH3 in Policy H5PU of the ELP and the proposed development will assist in enabling its future development, supporting housing development in the Principal Town of Whitehaven as supported by Policies ST2, ER7 and SS3 of the CS and Policies H1, H2, H3 and H4 of the ELP.

A separate Full Planning Application for the erection of 109 dwellinghouses and associated infrastructure including landscaping, open space, access, highways and drainage has been submitted on the Application Site under Application Ref. 4/22/2332/0F1, which is to be considered separately on its individual merits.

Landscape and Visual Impacts

Policy ENV5 of the CS states that the *Borough's landscapes will be protected and enhanced by: protecting all landscapes from inappropriate change by ensuring that the development does not threaten or detract from the distinctive characteristics of that particular area; that where the benefits of the development outweigh the potential harm, ensuring that the impact of the development on the landscape is minimised through adequate mitigation, preferably on-site; and, supporting proposals which enhance the value of the Borough's landscapes.*

Policy N6PU of the ELP states that *the borough's landscapes will be protected and enhanced by: supporting proposals which enhance the value of the borough's landscapes; protecting all landscapes from inappropriate change by ensuring that development conserves and enhances the distinctive characteristics of that particular area in a manner commensurate with their statutory status and value. It is stated that proposals will be assessed according to whether the proposed structures and associated landscaping relates well in terms of visual impact, scale, character, amenity value and local distinctiveness and the cumulative impact of developments will be taken into account as part of this assessment and that consideration must be given to the Council's Landscape Character Assessment, Settlement Landscape Character Assessment and the Cumbria Landscape Character Guidance and Toolkit at the earliest stage.*

The Cumbria Landscape Character Guidance and Toolkit (CLCGT) identifies the Site as being located within Landscape Character Type (LCT) - LCT 5: Lowland and within Landscape Character Area (LCA) 5d: Urban Fringe. The key characteristics pertinent to the area comprise: long term urban influences on agricultural land; recreation, large scale buildings and industrial estates are common; mining and opencast coal workings are found around Keekle and Moor Row; and, wooded valleys, restored woodland and some semi-urbanised woodland provide interest.

Copeland Landscape Settlement Study November 2021 identifies the Application Site as being in Character Type 5D Urban Fringe and Area of Local Character 5Dviii Marchon. The key characteristics of the area are identified as: gently rolling sandstone plateau, overlain by mining landforms; predominantly derelict/reclaimed land with new residential development and some agricultural pasture; and, having an air of decay and neglect from un-reclaimed and derelict land. It is identified as an area with capacity for development that helps to define the urban edge of Whitehaven and provide green infrastructure links between town, coast and countryside.

The Application Site is currently utilised as farmland, comprising of a single large rectilinear field with field boundaries comprising a combination of hedgerows, hedgerow trees and post and wire fencing and closed board fencing. The topography across the Application Site is sloping, with a fall from north west to south east. Vegetation across the Site is limited, with the field comprising semi-improved grassland and boundary vegetation comprising principally dense scrub.

The proposed earthworks are located on the raised area of the Application Site and would result in levels being lowered and raised by a few metres in areas. The development would result in the Application Site being more uniform in level and having a more man-made appearance.

The proposed surface water infrastructure is contained within the lower area of the Application Site contained by the adjacent to the existing surface water attenuation pond etc. and surrounding land.

The proposed development will result in localised changes to the local landform and would result in the loss of agricultural land, which would result in some minor impacts upon the local landscape character.

The proposed would be visible and discernible in localised views from the immediate public right of way, highways and some surrounding properties etc. The development will be viewed in the context of existing residential estates and ongoing development, the built form of which comprise a visual context. The proposed development would be significantly less visible and discernible in longer range views, where development would comprise a smaller element of the overall view.

Flood Risk and Drainage

Policy DM11 of CS and Policy DS9PU of the ELP requires that surface water is managed in accordance with the national drainage hierarchy and includes Sustainable Drainage Systems where appropriate.

Policy DM24 of the CS and Policy DS8PU of the ELP seek that development will not be permitted where: there is an unacceptable risk of flooding and or, the development would increase the risk of flooding elsewhere.

The proposed development includes two elements of drainage works comprising: the construction of a new SUDS pond and connecting swale and outfall to accommodate any future residential development on the Application Site and two new permanent land drains to protect the Application Site and adjacent properties on Valley View Road from any overland surface water flow that occurs during high rainfall.

Cumbria County Council – LLFA have been consulted and raise no objections to the proposed subject to the imposition of a planning condition requiring that the highway drain shall be protected and the silt traps and other silt reducing techniques be installed prior to the movement of earth commencing.

The Copeland Flood and Coastal Defence Engineer has confirmed that the proposed drainage design is acceptable. It is confirmed that an assessment of downstream flood risk should be considered at this stage given the proposed points of discharge and states that if not picked up at this stage, questioned if will it be included in the FRA for the 109 houses? The proposed drainage works are ultimately to comprise part of a wider drainage scheme for any future residential development, the final form of which will ultimately define the final drainage scheme etc. therefore it is considered appropriate that such an assessment be progressed as part of Application Ref. 4/22/2332/0F1.

Construction Surface Water Management and Silt Management

A scheme of construction surface water management is proposed to manage the impacts of surface water and siltation during the phases of construction.

Silt management on the Edgehill and Wilson Howe developments completed to date has been subject to significant scrutiny recently including as part of a planning enforcement investigation.

Haig Angling Club have reported excessive silt build up in Mirehouse Ponds, which it has been claimed is caused by the construction of the Edgehill and Wilson Howe developments completed to date.

Silt monitoring and management measures were secured as part of the approved planning permissions for the Edgehill and Wilson Howe developments.

The Applicant has recently sought to improve on the approved management measures on Phase 3 of the Edgehill development which is currently under construction. The improvements include the introduction of additional measures including settlement ponds and additional traps following review and engagement with Cumbria County Council – LLFA and The Environment Agency, which was progressed and facilitated through the planning enforcement investigation.

The Environment Agency is the relevant regulatory authority in relation to silt pollution and have confirmed that they are currently preparing a case against the Applicant for previous silt pollution on the Edgehill and Wilson Howe developments complete to date and that this is on-going.

A number of points are raised by Fish Legal who are acting in a legal capacity on behalf of Haig Angling Club in relation to the details of the silt monitoring and management measures proposed by the Applicant. These have been circulated to the relevant statutory consultees for their review and consideration in their assessment of the proposed details.

The Copeland Flood and Coastal Defence Engineer raises questions regarding the disposal of captured silt and clarity has been sought from the Applicant to ensure it is disposed of appropriately and does not simply re-enter the system.

Cumbria County Council – LLFA and The Environment Agency raise no objections to the proposed details subject to the imposition of planning conditions ensuring compliance with the submitted details.

The Environment Agency confirm that whilst the points raised by Fish Legal in their correspondence seem valid, they would not provide this level of detailed guidance in response to a planning application and confirm their intention to meet with the Applicant on site to discuss the proposed measures as part of their role as the regulating authority. It is highlighted that the Environment Agency hold powers to prevent discharge and impose further controls etc. in relation to these matters should this be deemed necessary and appropriate.

Whilst silt management is a material planning consideration, notwithstanding any provisions within any planning permission, controls remain the responsibility of the Applicant/Developer who is ultimately responsible for preventing such contamination, with the Environment Agency being the regulating authority.

Ecology and Arboriculture

Policy ENV3 of the CS and Policy N1PU of the ELP seek to ensure that new development will protect and enhance biodiversity and geodiversity. Policy N1PU of the ELP defines a mitigation hierarchy.

Policy N3PU of the ELP requires that *all development, with the exception of that listed in the Environment Act must provide a minimum of 10% biodiversity net gain over and above existing site levels, following the application of the mitigation hierarchy set out in Policy N1PU above. This is in addition to any compensatory habitat provided under Policy N1PU.* It is stated net gain should be delivered on site where possible and where on-site provision is not appropriate, provision must be made elsewhere in accordance with a defined order of preference.

A Preliminary Ecological Appraisal has been prepared in support of the Full Planning Application (PEA).

The PEA has identified that the major habitats on the Application Site and identified common amphibians, birds, bats, hedgehogs and badgers as potential constraints. An eDNA survey has identified that Great Crested Newts are not present on the Application Site.

A scheme of mitigation is outlined in the PEA for prior and during construction to prevent unacceptable impacts upon ecology arising from the development and its implementation can be secured via planning condition.

The proposed development comprises only facilitating development for any future residential development (Application Ref. 4/22/2332/0F1), which itself will be required to demonstrate the achievement of a minimum of 10% biodiversity net gain over and above existing site levels; therefore, it not considered necessary or appropriate to such at this stage.

Ground Conditions

Policy ST1 of the CS includes provisions requiring that new development addresses land contamination with appropriate remediation measures.

Policy DS6PU and Policy DS10PU of the ELP includes provisions requiring that development addresses land contamination and land stability issues with appropriate remediation measures.

A Geoenvironmental Appraisal (GA) of the Application Site has been submitted in support of the Full Planning Application.

The GA identifies that clay and potentially coal excavation has taken place within the northwest of the Application Site; probable unrecorded abandoned mine workings which potentially influence development in the east and southeast of the Application Site, an untreated mine shaft of unknown depth is present in the southwest of the Application Site which will require treatment and capping and that proof drilling/treating of shallow mine workings is recommended in the east of the site where the mine workings are indicated to be within influencing distance of the proposed development.

Copeland Environmental Health, the Environment Agency and The Coal Authority have been consulted and raise no objection subject to the imposition of planning conditions.

Whilst raising no objection to this application, it is necessary to highlight that The Coal Authority have proposed the imposition of planning conditions in relation land stability in relation to Application Ref. 4/22/2332/0F1 requiring the submission, approval and implementation of a scheme of remediation and or mitigation measures to address the mine entry and shallow coal mine workings to ensure the safety of the proposed residential development.

The Environment Agency confirm that the previous use of the Application Site presents a high risk of contamination that could be mobilised during construction to pollute controlled waters and that controlled waters are particularly sensitive in this location because the proposed development site is located upon a Highly Vulnerable Secondary A aquifer. It is confirmed that the application demonstrates that it will be possible to manage the risks posed to controlled waters by this development; however, further detailed information is

required before built development is undertaken. It is requested that a pre-commencement planning condition is imposed requiring the submission of a remediation strategy completed by a competent person.

Archaeology

Policy ENV4 and Policy DM27 of the CS and Policy BE1PU and BE3PU of the ELP seek to protect, conserve and where possible enhance heritage assets including archaeological assets.

A Geophysical Survey has been completed. The Historic Environment Officer of Cumbria County Council has been consulted. These works conclude that the proposed development has potential to disturb a number of archaeological assets.

A pre-commencement planning condition is proposed securing further archaeological investigation and recording in advance of the commencement of development.

Public Right of Way

Public Right of Way - FP 413031 lies adjacent to/runs through the Application Site.

The Applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works.

Cumbria County Council – Highways have suggested the imposition of the planning condition to ensure that no obstruction occurs; however, given that this is legally required under separately legislation, this has been imposed as an informative only.

Planning Balance

In overall terms, the proposed development represents a sustainable means is dispose of circa 16,000m³ of clean surplus earth arisings from the ongoing and adjacent Edgehill Park development and will assist in facilitating the onward construction of that development and the residential development currently proposed on the Application Site under Application Ref. 4/22/2332/0F1.

It is considered that the proposed development will not result in unacceptable impacts upon landscape character or result in unacceptable visual harm.

The relevant statutory consultees have raised no objection to the development from a drainage, construction management and contamination perspective subject to the imposition of planning conditions.

No issues are arising in relation ecology and archaeology subject to the imposition of planning conditions to secure mitigation and further investigation.

Recommendation

Approve subject to the following conditions:-

Planning Conditions

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

Reason:

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

2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -

Application Form

Location Plan – Drawing No. 20095.90.9.LP

Geoenvironmental Appraisal - Land at Phase 4, Edgehill Park - Report No. 4046-G-R024

Preliminary Ecological Appraisal – Edgehill Park – Phase 4 – Ref. UG415 PEA 01

Urban Green Letter - Ref. UG1415 - eDNA

Phase 4 Site Sections – Drawing No. 7843/SK08 Rev. A

Phase 4 Site Sections Sheet 2 of 2 – Drawing No. 7843/SK08-2

Proposed New Land Drainage – Drawing No. 7843/SK10 Rev. D

Proposed Outfalls – Drawing No. 7853/SK11 Rev. A

Attenuation Basin Sections – Drawing No. 7843/SK18

Construction Method Statement - Engineering Works Application - 4/22/2217/OF1 – August 2022

Edgehill Phase 4 – Surface Water Management Plan Phase 1 – Drawing No. 20095.90.9.SWMPP1 Rev. B

Edgehill Phase 4 – Surface Water Management Plan Phase 2 – Drawing No. 20095.90.9.SWMPP2 Rev. B

Silt Management Reporting Plan - Engineering Works Application - 4/22/2217/OF1 – August 2022

Reason

To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

Pre-Commencement Conditions

3. No development shall commence within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

This written scheme will include the following components:

- i) An archaeological evaluation;
- ii) An archaeological recording programme the scope of which will be dependant upon the results of the evaluation;
- iii) 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 the results for publication in a suitable journal.

Reasons

To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the examination and recording of such remains in accordance with the provisions of Policy ENV4 and Policy DM27 of the Copeland Local Plan 2013-2021.

4. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason

To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

5. Prior to the commencement of the movement of earth, the highway drains shall be protected, and silt traps and other silt management techniques shall be installed in accordance with the approved details.

The approved details shall be maintained for the entirety of the construction period.

Reason

To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems in accordance with the provisions of Policy ENV1 of the Copeland Local Plan 2013-2021.

Other Planning Conditions

6. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing within 14 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part of the site.

An assessment must be undertaken and where remediation is necessary a remediation scheme, together with a timetable for its implementation, must be submitted to and approved in writing by the Local Planning Authority.

The measures in the approved remediation scheme must then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report must be submitted to and approved in writing by the Local Planning Authority.

Reason

To prevent harm to human health and the environment in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

7. The development hereby approved shall not proceed except in accordance with the recommendations described in Preliminary Ecological Appraisal – Edgehill Park –

Phase 4 – Ref. UG415 PEA 01.

Reason

For the avoidance of doubt and to prevent harm to biodiversity in accordance with the provisions of Policy ENV3 of the Copeland Local Plan 2013-2028.

8. The approved Construction Method Statement - Engineering Works Application - 4/22/2217/OF1 – August 2022 shall be adhered to throughout the construction period.

Reason

For the avoidance of doubt and to prevent harm to biodiversity in accordance with the provisions of Policy ENV3 of the Copeland Local Plan 2013-2028.

9. No work for the construction of these developments, including demolition, shall take place on the site, except between the hours:

- 07:30 - 18.00 Monday to Friday; and
- 08.00 - 13.00 on Saturdays.

No work should be carried out on Sundays or officially recognised public holidays.

Reason

To safeguard the amenity of neighbouring occupiers in accordance with the provisions of Policy ST1 of the Copeland Local Plan 2013-2028.

Informative 1

Public Right of Way - FP 413031 lies adjacent to/runs through the Application Site. The Applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works.

Informative 2

The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com <<http://www.groundstability.com>> or a similar service provider.

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.