

ADDENDUM REPORT FOR PLANNING PANEL

Planning Panel Date: 23rd November 2022.

Application Ref.: 4/22/2217/0F1.

Proposal:

Importation and deposit of earth material to reprofile existing ground levels/contours; installation of surface water drainage infrastructure including installation of foul water drainage infrastructure.

Address:

Land to the West of Valley View Road, Whitehaven.

Planning Panel Meeting – 26th October 2022

At the meeting of the Planning Panel on the 26th October 2022, Members resolved that they wished to complete a site visit before determining planning application ref. 4/22/2217/0F1.

A copy of the Planning Panel report prepared for the meeting of the Planning Panel on the 26th October 2022 is appended to this report for completeness.

Members are scheduled to complete a site visit on the 23rd November 2022.

New Information Submitted By Mr Heald (Haig Angling Club) At Planning Panel Meeting – 26th October 2022

The following information was submitted by Mr Heald at the Planning Panel Meeting on the 26th October 2022:

- Mirehouse Ponds – Sediment Provenance Assessment Final Report – Dr Peter Stone BSc. (Hons) MSc. PhD MCIWEM C.WEM
- Mirehouse Ponds – Sediment Source Discussion – Dr Peter Stone BSc. (Hons) MSc. PhD MCIWEM C.WEM

The information comprise reports prepared on behalf of the operator of Mirehouse Ponds that seek to establish the source of the siltation within Mirehouse Ponds.

The reports allege that the failure of drainage management during the construction of the Wilson Howe and Edgehill Park development by Story Homes is the dominant supply of fine sediment.

The reports allege that the type of measures installed at the Wilson Howe and Edgehill Park development by Story Homes are as required to manage sediment but are poorly managed or insufficient in capacity.

It is alleged that the pace of construction means surface water drainage and associated sediment transport pathways are constantly changing but measures are not adapted or moved properly to intercept the pathways

It is alleged that there is a fundamental lack of understanding by Story Homes that runoff and sediment transport happens during the infrequent and random events related to rainfall patterns i.e. during 5-10 random days and that the weekly inspections and response to transporting events is highly likely to be too slow.

It is estimated that 3900m³ of sediment has been deposited in Mirehouse Ponds since they were surveyed in 1997.

For the avoidance of doubt, the reports relate to the completed phases and ongoing construction at the Wilson Howe and Edgehill Park development by Story Homes and not the development now proposed.

Additional Representation - Mr Heald - Haig Angling Club - 2nd November 2022

The issues outlined are summarised below:

- A further environmental incident at Mirehouse Ponds was reported on the 2nd November 2022.
Once again high levels of suspended solids are entering Mirehouse Ponds from the culvert linked to the Story Homes Edgehill Park development.
- Story Homes appear to have commenced groundworks in the area intended to be Phase 4 of the Edgehill Park development prior to gaining planning permission.

Officer Comments

New Information Submitted By Mr Heald (Haig Angling Club) At Planning Panel Meeting – 26th October 2022

The reports prepared relate to the completed and ongoing Wilson Howe and Edgehill Park development by Story Homes and do not directly relate to the development currently proposed under application ref. 4/22/2217/0F1 which must be considered on its individual merits.

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.

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

It is not for Officers or Members to pre-empt the outcome the case by the Environment Agency against the Applicant in relation to the previous silt pollution on the Edgehill and Wilson Howe developments.

It is for Officers and Members to consider the proposed development on its individual merits, which includes accessing the acceptability of the construction surface water management and silt management measures proposed by the Applicant as part of the development to prevent issues of silt pollution occurring during its completion and beyond.

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

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.

Summary of Consultation Responses

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.

Again, it is highlighted that whilst silt management is a material planning consideration, notwithstanding any provisions within any planning permission, control remains the responsibility of the Applicant/Developer who is ultimately responsible for preventing such contamination, with the Environment Agency being the regulating authority.

Additional Representation - Mr Heald 2nd November 2022

The further environmental incident has been recorded in relation to the planning enforcement investigation in the existing silt management enforcement investigation.

A planning enforcement investigation was opened in response to the alleged groundworks.

Investigations were completed in conjunction with the Site Manager; Production Team; and; Safety, Health, Environment and Quality Team of Story Homes.

It was concluded that the alleged groundworks were being completed within Phase 3 of the Edgehill Park development and relate to the residential development for which planning permission has been approved. No works have commenced in relation to the proposed Phase 4 of the development i.e. the current planning application site.

Mr Coyne of RSK

Members will recall that at the meeting of the Planning Panel on the 26th October 2022, Mr Coyne of RSK spoke on behalf of Story Homes.

There appeared to have been some uncertainty regarding the role of Mr Coyne during the questioning by Members of the Planning Panel.

For the avoidance of doubt, it is confirmed that Mr Coyne has been employed by Story Homes to independently review construction management on the proposed development. This includes review of the operation of the construction surface water management and silt management measures proposed as part of the proposed development.

This is proposed by Story Homes to ensure that the proposed measures are correctly implemented and managed and so remain effective throughout the construction period.

This is an additional safeguarding measure by Story Homes that sits outside of the planning process and which seeks to prevent any issues arising from the development i.e. silt contamination etc. that could result in investigation, action or prosecution by the Environment Agency as the relevant regulating authority for such issues.

Conclusion

The recommendations as outlined in the report prepared for the meeting of the Planning Panel on the 26th October 2022 remains unchanged i.e. approval subject to the defined planning conditions.