

**Allerdale Borough Council**

**Planning Application  
Development Panel Report**

**Reference Number:** OUT/2021/0026

**Valid Date:** 9/12/21

**Location:** Land east of Station Rd, Flimby ,  
Maryport

**Applicant:** Glade developments ltd

**Proposal:** Outline application for the erection of  
upto 59 dwellings and associated  
infrastructure works including access

**RECOMMENDATION**

**GRANT** subject to planning conditions and a S106 encompassing the following obligation criteria.

- (i) 10% local affordable housing provision within the reserved matters application (low cost affordable units).**
- (ii) Provision of commuted sum contribution based on the councils Developer contributions SPD( 59 x1.34x £120=£9,487) towards upgrade of the off- site Flimby play park (within 400m)**
- (iii) Securing replanting and delivery areas of woodland P1 and P2 and management /maintenance scheme for the amenity greenspace (885sqm) and woodland management scheme for overall site.**

**1. Summary**

<b><u>Issue</u></b>	<b><u>Conclusion</u></b>
Principle of Development	The outline application includes all matters reserved except access. Despite the site not being allocated this major development falls within the recently revised adopted settlement limits for Flimby under Policy SA2 of ALPP2. The site is therefore seen as a windfall site. The scale of the development is considered proportionate to Flimby's role under Policy S3 as a local centre and would bring back to beneficial use a redundant partial brownfield

	<p>overgrown site to the wider benefit of the community.</p> <p>The principle of the development is therefore acceptable subject to compliance with any identified physical constraints to the site.</p>
Highways	<p>The site is to be served by a solitary access junction on its frontage onto the A596 highway .Although it has been recognised that this is an important strategic corridor and there are existing highway constraints within the existing highway infrastructure e.g. existing junctions, the applicant has demonstrated a new access which is acceptable to the highway authority. On the basis of this evidence the principle of a new junction serving the site is acceptable in compliance with Policy S22 of ALPP1</p>
Drainage	<p>Flimby has a past record of flood events and therefore the onus was with the developer to demonstrate a scheme which did not exacerbate these problems. However the main focus of these events concentrate around the Pennygill watercourse, whereas the proposed site is alternatively served by Furnace Gill,</p> <p>The application has been the subject of discussions with the LLFA and is supported by a detailed FRA/surface water drainage scheme. The submitted details are acceptable to the LLFA.</p> <p>The details therefore comply with Policy S29 of ALPP1.</p>
Tree preservation Order / Landscaping	<p>The primary on-site physical constraint is the woodland trees around the perimeter of the site which have been protected under a TPO.</p> <p>The application is supported by a detailed tree survey. Through this document the tree categories have been established which have enabled the identification of a developable area on the submitted parameters plan which retains the bulk of</p>

	<p>the higher quality category trees at the site.</p> <p>Whilst the application is outline in format the applicant has provided an illustrative plan to demonstrate how this specific number of dwellings can be achieved at the site(reducing its initial number from 67 to 59)</p> <p>This would still potentially likely involve the loss of some category C trees which extend into the site. As it is solely illustrative officers recommend conditions to ensure the reconsideration of trees within the developable areas as part of any future reserved matter application.</p> <p>Officers consider the areas of TPO left outside the developable area retain the characteristics of its woodland designation which contribute to its original protected designation which is further enhanced by planting.</p> <p>Whilst the loss of some protected trees is expected these will relate to poorer specimens and have to be balanced against the wider and economic benefits of this redundant site</p> <p>Overall subject to the conditional safeguards the scheme offers a pragmatic option to facilitate the development of the site but retain its key landscape qualities and characteristics.</p> <p>The proposal therefor complies with the landscape objectives of Policy S33 and DM17 of ALPP1</p>
Ecology	<p>The application is supported by an ecologist's survey. Albeit the site has naturally regenerated with deep undergrowth no evidence was identified of protected species and Natural England have confirmed the site does not warrant an HRA assessment</p>

## **2. Proposal**

- 2.1. The applicant seeks outline consent for the erection of upto 59 dwellinghouses on a vacant area of land (partially brownfield) located at the northern edge of Flimby's settlement. The land previously formed part of the grounds of Flimby Lodge which had been demolished (areas of hardstanding remain) and the site has since naturally regenerated. The application is supported by: an ecology survey, odour assessment, planning and affordable housing assessment, heritage statement, statement of community involvement, flood risk, geo- environmental, noise and transport assessment. Given the existing Tree Preservation Order on the site there is also a range of tree related reports with an accompanying illustrative masterplan. The applicant has defined a developable area on the submitted parameters plan.
- 2.2. The application includes the reserved matter of access, specifying a new junction on the sites frontage onto the A596 highway (including a central filter lane for right turning traffic).
- 2.3. The submitted illustrative masterplan outlines a central spine road through the site with a detailed schedule of the protected trees retained around the edges of the site. In addition to the retained trees it also encompasses two new planting areas, one formerly agreed with the Forestry authority deriving from former unauthorised felling works and the second relating to a compensatory area of planting to compensate for any trees lost from the development.
- 2.4. The plans under consideration are;  
Amended plan 01 site boundary 14/11/22  
Amended parameter plan Rev I 14/11/22  
Amended 03 tree retention Rev I 14/11/22  
Amended 04 Technical illustrative masterplan Rev I 14/11/22  
8726/01 Topographical survey  
PH/C4721/10511 phase 1 geo environmental report  
ALM/200034/TS/00 Transport statement  
Amended Dwg SCP/200034/ATR01 Rev B Swept path analysis 4/03/22  
Amended SCP/200034/SK02 Rev B proposed access arrangement 4/3/22  
Heritage statement  
Odour assessment 102551  
Phase 1 Ecology survey  
64/R1 Flood risk assessment  
Furnace Gill Hydraulic assessment  
Noise assessment 16/09/22  
E mail dated 28<sup>th</sup> September amending title to 59 units  
Draft heads of terms
- 2.5. The application was called in for consideration by a councillor

## **3. Site**

- 3.1. The application site is relatively level and in the absence of any operational use has naturally regenerated and become overgrown. There are belts of mature

woodland around the northern eastern and southern perimeters of the site. The remaining western frontage onto the A596 highway is open. Some informal footpaths traverse through the undergrowth.

- 3.2. The site is located within a mixed use area of the village with residential development to the west and the south, Risehow industrial estate to the north and an area of allotments to the east which are served by an existing access track (public footpath 244023) running parallel along the northern edge of the site. The watercourse of Furnace Gill also runs alongside the northern side and parallel to the allotments access track.
- 3.3. The Grade II listed property of Flimby cottage is sited on the opposite western side of the A596 highway

#### **4. Relevant Planning History**

- 4.1. There is no recent planning history, directly related to the site itself, but its brownfield status contributed to the failure of a satisfactory sequential test in the dismissal of an refused application ( 2/2007/0658) and subsequent appeal (APP/G09808 / A/07/2056263) on greenfield land at Ryehill farm Flimby.
- 4.2. Flimby lodge had been registered as a Grade II listed building in 1977 (as a derelict building) but is no longer referenced on Historic England's records.
- 4.3. The former initial treeworks undertaken at the site, albeit at that time not requiring the council's consent, prompted the council to subsequently protect the remaining trees under TPO319. These felling works were however in breach of separate felling licence regulations which resulted in investigations by the Forestry Authority which resulted in the requirement of a replanting scheme under their respective regulations.
- 4.4. The application is supported by a statement of community involvement undertaken in mid-2021 prior to the applications submission which was a postal letter consultation on the northern section of the village as covid restrictions hindered the means to undertake a physical public consultation. Four responses were received to this consultation re scale and massing, trees and hedgerows, drainage/flood risk, transport/traffic, local services and land acquisition.

#### **5. Representations**

- 5.1. **Maryport Town Council-** Question the village's ability to accommodate additional housing without significant improvements to its drainage infrastructure which presently cannot cope with heavy rainfall events prompting flooding. This has been exacerbated by housing estate developments in more recent years with more surface water discharged into the watercourses e.g. Farmers Way. The council is aware that the local plan currently provides for the potential of one site south of West lane and this should be considered in judging alternative proposals. It is also

observed the site is next to a site designated in the plan for heavy industrial use and question its suitability re traffic and air pollution.

- 5.2. In terms of supporting community facilities there should be utility provisions from the developer, along with leisure facilities and recreational facilities for young people, plus the needs of the school and local doctor facilities
- 5.3. The proposals additional traffic would add to the congestion on the A596 causing safety issues and restrict access to the village. Any proposal should therefore be supported (including drainage) by the necessary infrastructure.
- 5.4. The council highlight that the 550 letters submitted after the 2015 flood event have not been responded to and seek clarification as to how the findings of the Flood investigation report have influenced proposals for future development in the village under the local plan(especially addressing drainage inadequacies).
- 5.5. Response 10/08/22- reiterate their original objections
- 5.6. **CCC-Highway Authority** –initially sought further evidence on vehicle tracking. In response to the amendments advise to take cycle route 72 off the carriageway which along with other minor layout details can be looked into as part of the s278 process. The updated tracking details are acceptable. Overall the layout appears to be compliant with their design guide but too bends are too sharp and other aspects e.g. bins, turning heads, road surfaces and parking. Therefore no objection subject to highway conditions.

**LLFA-** The submitted drainage details are considered acceptable subject to a drainage conditions.

- 5.7. **Education** – Advise that a population led model to the proposal generates a yield of 24 children-6 infant, 8 junior and 10 secondary pupils. They refer to the catchment schools for the site but conclude there is sufficient places available to accommodate the 14 primary pupil places and the 10 secondary school places i.e. no contribution is required for the development
- 5.8. **Environment Agency-** No objections but advise a permit will be required under their own respective regulations for any works within 8m of a watercourse.
- 5.9. **Environmental Protection** – advise of the submission of a more comprehensive noise assessment with mitigation measures for the dwellings. Question whether these are accepted by the findings re layout/ventilation in the report.
- 5.10. **Housing** –Outline the breakdown for affordable housing for Maryport and its adjoining parishes predominantly 4 bedroomed properties. Any discount sale properties should be sold for no more than 80% of their open market value.
- 5.11. **United Utilities** – No objection subject to drainage conditions.
- 5.12. **Fire Officer** – No objections but recommend the use of a sprinkler system

5.13. **Natural England** – No objections as the proposal will not have any significant adverse impact on designated sites. Reference to habitat regulation impact zones.  
- Given the sites relationship to the settlement confirmed no HRA required.

5.14. **Highways England** – No objections

5.15. **Forestry Authority** – Advise the details in the submitted plan replanting areas P1 and P2 were agreed at a previous site visit.

5.16. The application was advertised on site and in the press- Five letters of objection were received on the grounds of :

- Drainage and waste water with the land acting as a soakaway for water running down from Flimby woods. Its replacement with hard landscaping would be problematic with flooding in the village which are further hindered by increasing sea levels
- Road safety – The A596 is one of the busiest roads in West Cumbria with concerns on the access being on a bend, multiple vehicular access points (including the access to Fothergill's estate), for bus stops and pedestrian crossings in the locality, the large HGV traffic volume associated with the industrial estate to the north (60m) plus one of the village's main access points to the south (60m)
- The volume of traffic has significantly increased with a past fatality/crashes at the site of the access. The submitted road traffic surveys were undertaken during lockdown and therefore seek a further survey by the highway department.
- Later letter submitted confirmed that their earlier grounds had not been addressed and therefore still stand.
- The site previously only accommodated a single dwelling
- The proposal represents a 12% increase in residential accommodation in Flimby
- Traffic on the A596 exceeds the 30mph speed limit
- The A596 is grid locked when busses stop with tailbacks especially at school times
- Environmental concerns as supporters of the late Queen's green canopy initiative concerns on ecological biodiversity with no unnecessary cutting down of trees with evidence of birds, bats and barn owls
- Additional comments were also received from the Royal pigeon racing association. They consider the development will severely impact on member's hobby of pigeon racing with the removal of an existing allotment which is sited adjacent to the lane (north side). The allotment contains both a loft and an area of cultivated land. The proposal would prevent them enjoying their hobby contravening Allendale's strategy to encourage health and active life for their population and undermines mental health.

## 6. **Environmental Impact Assessment**

6.1. The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

6.2. The development does not within Schedule 1 nor 2 and, as such, is not EIA development.

## **7. Duties**

7.1 Does the site affect the setting of a listed building?

Yes

(Flimby Lodge) Section 16 of the Listed buildings Act advises that “the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.”

(Flimby cottage)- Section 66(1) of the Listed Buildings Act 1990 states that, in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

7.2 Is the site within a designated conservation area?

No

7.3 Is the development likely to have a significant effect upon a Natura 2000 designation?

No

## **8. Development Plan Policies**

### **8.1. Allerdale Local Plan (Part 1)**

Policy S1 Presumption in favour of sustainable development  
Policy S2 Sustainable development principles  
Policy S3 Spatial Strategy and Growth  
Policy S4 Design principles  
Policy S5 Development Principles  
Policy S7 A mixed and balanced housing market  
Policy S8 Affordable Housing  
Policy S22 Transport principles  
Policy S27 Heritage assets  
Policy S29 Flood Risk and Surface Water Drainage  
Policy S30 Reuse of Land  
Policy S32 Safeguarding amenity  
Policy S33 Landscape  
Policy S35 Protecting and enhancing biodiversity and geodiversity  
Policy DM14 Standards of Good Design  
Policy DM17 Trees, hedgerows and woodland.

### **8.2. Allerdale Local Plan (Part 2)**

Policy SA2 Settlement limits  
Policy SA3 Affordable Housing



Policy SA5 Housing standards  
Policy SA33 Broadband

## **9. Other material considerations**

**National Planning Policy Framework (NPPF) (2021)**

**Allerdale Borough Council Plan 2020-2030**

**Environmental Bill 2021**

## **10. Policy weighting**

10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. This means that the Allerdale Local Plan (Part 1) 2014 and the Allerdale Borough Local Plan (Part 2) 2020 policies have primacy.

## **11. Assessment:**

11.1. The proposal is an outline application. Therefore member's primary consideration is whether the principle of the development (accounting for the precise scale of development specified in its title) is acceptable at this location. All matters are reserved except access which forms part of the application. The individual planning merits of the proposal may be summarised under the following key planning considerations :

### Principle of the development

11.2. Flimby is designated as a "local growth centre" under the approved settlement hierarchy for the Borough's housing supply under the provisions of Policy S3 of ALPP1. Thus this adopted policy recognised that the village benefited a wide range of community services and facilities and therefore represents a sustainable location for housing growth which will further contribute to the Borough's overall housing supply.

11.3. However by virtue of the past flooding history within the village there was local concern within the village during the local plan consultation stage on the potential impact of further housing development which prompted a high level of representations in preparing the future allocations and settlement limits for the village. As a consequence only a single site was allocated off West Lane in the village for housing development. However this site by virtue of its brownfield status as previously developed land was retained within the revised settlement limits under Policy SA2 of ALPP2. Therefore albeit unallocated, the proposal can be considered as a windfall site, which may be acceptable in principle if its associated physical constraints, which have hindered its past development can be satisfactorily addressed.

- 11.4. The site itself is wedged between the extensive area of Risehow's industrial estate sited to the north and residential sections of the village to the north, west and south. The development, especially as it was originally part of the historic fabric of the village is well related to the settlement itself.
- 11.5. The scale of the development is also considered proportionate to the size of the settlement and its wide range of community facilities. The principle of the proposal therefore achieves the primary objectives of both Policy S4 and S5 of ALPP1.
- 11.6. The principle of the development, despite its scale which remains commensurate to the wider size of the settlement, is therefore acceptable in compliance with both Policy S3 of ALPP1 and Policy SA2 of ALPP2.

### Trees

- 11.7. Policy S33 of ALPP1 refers to landscape considerations and this is supplemented by Policy DM17 which seeks the retention of mature hedgerows and trees within development proposals.
- 11.8. This issue represents the main physical constraint to the site. The site has, in the absence of any use or site management (with the former lodge falling into a state of disrepair), naturally regenerated. This includes an extensive range of belts of woodland around the northern, eastern and southern edges of the site. This includes both mature trees plus an extensive range of self-seeded specimens.
- 11.9. In 2017 the council responded to former tree works being undertaken at the site, imposing a woodland Tree preservation order (TPO) on the remaining trees as they were both considered of high amenity value and were under threat from future works. As the felled trees had been in breach of a felling licence the Forestry Authority were also involved and imposed a restocking scheme (330 trees) to meet their requirements under their respective regulations.
- 11.10. It is understood that the restocked specimens have been removed by third parties since their planting and the Forestry Authority have requested that the outstanding matter of the restocking issue be revisited and an area devoted to this as part of any development scheme.
- 11.11. Within pre application discussions officers highlighted the importance of the trees which would need to be integrated into the layout of any future development scheme.
- 11.12. The applicant has therefore submitted a wide range of supporting arboricultural evidence in support of the application with a detailed assessment of the trees on the site to identify their number, category and specify those to be removed or retained. In order to assess this a developable area was identified on a parameters plan.

- 11.13. The tree report concludes that the woodland comprises of some 340 trees of which 40 were Class A (high quality life expectancy at least 40 years), 55 Class B moderate quality trees (with a life expectancy of at least 20 years), 172 Class C (low quality trees with a life expectancy of at least 10 years) and 73 Class U trees (cannot be realistically retained as living trees for more than 10 years). Of these Sycamore dominate the species comprising approx. two thirds (215) of the woodland, with hawthorn comprising of 98 specimens.
- 11.14. The applicant contests that with Sycamore being the predominant species it does not benefit a woodland classification under the National Vegetation Classification system' 1 8 woodland communities.
- 11.15. In a supporting statement he advises *"As an urban designer with some 15 years of professional experience, I provide design services to many of the UKs leading housebuilders and developers, in the delivery of often complex residential and mixed-use design proposals, from concept to detail. With development proposals ranging from between 10 and 1,000 new homes, and covering a variety of different sites, from inner city regeneration to edge of settlement greenfield sites, I am well versed in providing balanced design proposals that respond to a broad range of site constraints and opportunities. In addition, I have also delivered design guides, masterplan frameworks and SPDs on behalf of several local authorities across the north of England.*
- 11.16. *The site at Flimby represents a previously developed vacant site, with a reasonably significant number of existing trees, including Cat A, Cat B and Cat C trees within a site area of just 1.95ha. The site does not include any significantly historic or veteran trees.*
- 11.17. *When developing design proposals, the best approach is to retain high-quality trees, where possible. Doing so not only preserves landscape/ ecological qualities but it provides an attractive setting for new homes, establishing instant maturity within the development and ultimately enhancing residential values.*
- 11.18. *We, therefore, acknowledge and understand that tree retention is an important design objective for any well-meaning development proposal.*
- 11.19. *However, tree retention is not the only important design objective. New developments must also be capable of delivering attractive residential streets and urban spaces that are safe and well overlooked by new homes. Accordingly, the retention of mature trees which prevent the delivery of safe and attractive streets is not considered to be an acceptable outcome in accordance with best practice. Whilst recognising that good quality Cat B trees often have a life span of c.20 years, the appropriate design response is, therefore, to retain as many mature trees as possible, whilst also delivering safe and attractive streets which can mature beyond the life span of the tree.*
- 11.20. *The proposed development includes the removal of 0 cat A trees and just 4 cat B trees, whilst also achieving widely recognised standards of good urban design, as defined within national design guidance, Building for a Healthy Life. The scheme includes safe and attractive streets and public spaces, with the latter providing new and replacement tree planting that can mature with the new*

*homes and add greater value in the longer term than the trees proposed for removal.*

- 11.21. *The illustrative layout submitted in support of this application, provides a level of detail not normally considered necessary for an outline proposal. This process has satisfied me that any well-designed development proposal on this site will require the removal of up to 4 cat B trees, plus the removal of cat C trees (which have lesser planning/ landscape significance)."*
- 11.22. *It added "The amendments and compromises made by our Client since submission will hopefully be reported to Members via the Officer Report, together with my Client's commitment to re-plant the site (for a second time in line with the Forestry Commission requirements after the theft of all previous re-planting) in accordance with the Forestry Commission requirements (200 trees).*
- 11.23. *We would hope that the Report will also detail the additional tree planting proposed by my Client in excess of the Council's required 2:1 ratio (36 trees are to be removed, but over 100+ replacement trees will be provided, additional to the Forestry Commission planting, as documented in the key/legend on the submitted Technical Illustrative Masterplan).*
- 11.24. *In conclusion, it remains our Client's position that the benefits of the proposed development as a whole, on balance, outweigh the loss of 4 no. category B trees."*
- 11.25. Further to the above correspondence the applicant has further amended the scheme, revising the illustrative layout further resulting in only the potential loss of a single category B tree in the developable area. In addition an appeal example was provided for another site in Cheshire under which the Inspector had allowed an appeal for outline housing development adopting a similar developable area concept whilst safeguarding TPO assets within them.
- 11.26. The scheme therefore seeks a pragmatic approach to enable the felling of predominantly lower category tree specimens which encroach into the interior of the site within the developable area, but retains groups and belts of mature and better specimens around the perimeter. This involves the loss of no category A trees but accepts there will be the possible loss of 1 of the category B tree to possibly facilitate the development. The applicant has proposed an additional replacement planting area on the site to compensate for the landscape/ biodiversity matters arising from the loss of the low quality specimens at the site.
- 11.27. As national guidance seeks to safeguard the higher classification trees at development sites the applicant was also requested to demonstrate whether this precise scale of development (59 dwellings) could be achieved at the site. Whilst he declined to commit to the reserved matters of layout, he was agreeable to officer's request to omit a former tree felling plan from the approved details and adopt planning conditions which would revisit the felling of trees within the developable area as part of any future reserved matters application. This would provide assurances to the council that any such works are essential to warrant the loss of any protected trees depending on the merits of any proposed future estate layout. However it is also emphasised that the approved retained tree plan and planning conditions safeguard all, except 1, category A & B trees. Officers

also highlight that the description is upto 59 dwellings so any felling under a future proposal may be potentially less.

11.28. Officers consider the issues are threefold;

11.29. (i) Principle of the illustrative layout. The onus remains with the developer to demonstrate that the scale of development proposed can be achieved at the site without significant harm to the TPO trees which has been designated as a woodland due to their amenity value. The proposed strategy adopted is twofold. It identifies in detail a developable area on the parameters plan. In turn it also includes an illustrative plan demonstrating how the descriptions 59 units is feasible achievable within the developable area but does not commit to any felling works which can be re-examined as part of any future reserved matter application. No trees will be allowed to be felled pending the outcome of the reserved matter application. i.e. the illustrative plan demonstrates the worst case scenario. Given this safeguards the principle of this strategy is acceptable resulting in no further premature loss of additional protected trees,

11.30. (ii) Scale of felling. It is for members to balance the economic and social impact benefits against the loss of the trees. Officers acknowledge the applicants comments that in the absence of any proper management of the site with a lack of any woodland management there is a proportion of these individual trees within themselves which are of little merit and with the backdrop of other retained trees limits the extent of the landscape impact. However the plan only identifies 1 higher Category B tree being possibly felled and therefore whilst there may still be a high number of lower category trees lost (not all necessarily solely deriving from the development itself e.g the higher proportions of self-seed trees needing thinning). Officers consider overall, given the benefits e.g. affordable housing sufficient justification has been demonstrated for the loss of some of the lower category trees.

11.31. (iii) Cumulative impact. The applicant has emphasised that the scheme seeks to retain the main high quality of the trees on the site with little weight being attributed to the category C and D trees. However officers emphasise that the TPO designation relates to its character as a woodland and that irrespective of the category of the tree the category C trees can still collectively add the cumulative visual amenity landscape value of these trees. The importance of this was highlighted in the former dismissal of an appeal for a retail unit (2/2018/0529) at the rear of the Lakes centre in Cockermouth with the Inspector attributing weight to the combined visual amenity value of the woodland as a whole rather than as individual specimens (especially as it similarly included a large volume of self-seeded specimens.) In assessing this matter members need to similar balance the economic/ social benefits of the proposal including the 10% of affordable units, plus consideration of where the amenity woodland value of the trees can be seen to public view and whether this is satisfactorily compensated by the restocked areas. In officers opinion the number of trees retained which include the better specimen retain the visual identity of the site as a form woodland i.e not a sporadic line or individual trees especially as the trees to the rear are well set back from the main public viewpoint on the A596 highway

which will be further diminished by the visual presence of the estate itself in the foreground.

- 11.32. Therefore overall officers, especially in the absence of the reserved matters of layout consider the applicant has demonstrated that the scale of the development can be achieved in a developable area with minimal loss and harm to the visual amenity environmental value of the TPO trees,(including the necessary conditional safeguards to ensure any such works are essential)

### Highways

- 11.33. Policy S22 of ALPP1 refers to transport principles .The applicant has included the reserved matter of access as part of the submission with a detailed layout scheme of a new traffic junction onto the A596 highway.

- 11.34. Whilst acknowledging the objectors comments relating to the strategic role of this major highway through the Borough which supports a high volume of traffic including HGV's, weight is attached to the consultation response of the County highway authority who raises no objections to the details of the new junction subject to highway conditions. The access junction details themselves can be reviewed as part of the s278 process under their own separate regulations (Although the objectors refer to the traffic survey being hindered by covid restrictions the County highway authority will, given the highway concerned have detailed background knowledge on the extent of its use and will have also accounted for the localised highway features within the immediate vicinity of the site.)

- 11.35. The highway merits of the proposal are therefore acceptable.

### Drainage

- 11.36. Policy S29 of ALPP1 refers to surface water drainage and supporting flood risk and hydraulic assessments have been submitted with the focus on the nearby watercourse Furness Gill which traverses to the North of the site.

- 11.37. Officers and the applicant both acknowledge that Flimby has been the subject of past flooding events. However these have largely concentrated on the alternative watercourse of Pennygill (approx. 125m to the south) with flooding in separate sections of the village to the south of the site. These past events have prompted the drafting and approval of a flood mitigation strategy for the village to seek to alleviate the flood risk problems in the village.

- 11.38. The applicants FRA assessed the topography of the site which is predominantly flat with only a very shallow gradient with levels ranging from 7.5m (road frontage) to 10m AOD. The site itself is located with Flood zone 1 and therefore is not subject to any sequential test, but is at risk from neighbouring flood zone 2/3 land.

- 11.39. The flood risk assessment accounted for tidal risk from the Irish sea ,Fluvial risk from Furness Gill, surface water flooding and the developments drainage strategy (which also accounted for any potential blockage on Station Rd)
- 11.40. The FRA concludes that in a 1 in 200 2115 event a small area to the frontage would be inundated. It is therefore recommend floor levels in this area be increased to 8.1AOD, which would also assist in the event of any possible blockage. The drainage scheme will address any potential surface water run-off and reduce greenfield run off. Site investigations have established that infiltration is not feasible and therefore sequentially the surface water will discharge into Furness Gill's watercourse (allowing for 1 in 100 year event and an allowance for 40% climate change). The County highway authority have indicated that they would be prepared to adopt a fully permeable paved solution to the road system.
- 11.41. The supporting reports indicate the attenuated scheme will reflect existing greenfield discharge rates, plus allowance for climate change.
- 11.42. Officers attribute significant weight to the no objection responses both from United Utilities and the County's LLFA subject to adherence to their respective recommended drainage conditions. Officers therefore conclude the submitted drainage strategy is acceptable with no increased flood risk to the site or its locality in compliance with Policy SA29 of ALPP1.

#### Residential amenity

- 11.43. Policy S29 of ALPP1 seeks to safeguard residential amenity. The submitted layout details are illustrative. As this outline application borders existing residential dwellings on its southern edge officers consider the impact on the privacy on their residential amenity can be alternatively be examined in greater detail as part of any future reserved matter application.
- 11.44. However it is recognised that this subject does not solely relate to the residential amenity of existing properties, but is also equally applicable to the occupiers of the proposed dwellings. Officers highlight that Risehow is a long established industrial estate with a mixture of a range of differing industrial landuses, most of which by virtue of their longevity do not benefit pollution mitigation control planning conditions, especially as some may have been potentially implemented under the estates designation as one of the districts former Enterprise Zones (which has since ceased).
- 11.45. The proximity of the site (approx.35m) to the existing Risehow Industrial estate to the north of the site resulted in the submission of supporting odour and noise assessments.
- 11.46. Both the applicants surveys have been evaluated based on the current circumstances of landuses and businesses within the estate but members should also account for potential changes of future circumstances to the nature of the uses at the site relating to the B2 class industrial uses, some of which would not necessarily in themselves require planning consent. This concern has similarly

been raised by the Environmental Health officer in judging the merits of the current application.

- 11.47. The applicant's survey in terms of odour did not undertake a sniff test, but during a walkover at the site did not encounter any odour or any identified odour sources. A check on the existing recorded industrial uses on the existing estate did not identify any industrial uses whose processes would generate significant odour, concluding it was a negligible risk. These findings are accepted by the Councils Environmental health officer.
- 11.48. The applicant's consultant's noise assessment included a survey of the existing site and its noise levels which derive from both the A596 highway and the nearby industrial estate. It concluded that suitable acoustic mitigation can be accommodated in the final design to address the impact of traffic noise. Similarly the survey considered the noise impact from the industrial estate would be significant. It therefore recommends a range of mitigation measures (glazing/ventilation/ acoustic fencing) which will need to be further developed as final layout details are pursued under any future reserved matter application which can be addressed by condition. The councils Environmental health officers whilst accept the findings seek clarification on the layout and also endorse the need of noise mitigation measures. The applicant has requested these be reserved by condition.
- 11.49. Overall officers consider the compatibility of the neighbouring landuses has been evaluated. Whilst acknowledging this solely relates to existing circumstances and that there remains for the potential for future changes to the industrial uses it is considered reasonable and is unlikely to prejudice future alternative industrial development proposals on the industrial estate especially given the proximity of other existing nearby residential properties within the vicinity of the industrial estate on the northern outskirts of the village i.e. the need to safeguard their residential amenity would be equally applicable to any such future industrial use.
- 11.50. Therefore on balance officers consider the proposal would not result in any significant loss of amenity in compliance with policy S32 of ALP1.

#### Ecology/Biodiversity

- 11.51. Policy S35 of ALPP1 seek to ensure consideration of ecology/biodiversity issues in the determination of the application. The applicant has submitted a Phase 1 ecology survey of the site.(march 2021 which had been undertaken after site clearance
- 11.52. The site in the absence of any operational use has since largely naturally overgrown in a blanket of scrub vegetation and is enclosed by a perimeter of mature /semi mature trees (protected under the TPO).
- 11.53. The report considers it clearance which affected most of the area diminished its ecological value. The applicant's survey did not identify any protected species at the site whose habitat would be disturbed by the proposed works including the species of: badgers, birds, bats, hedgehogs and squirrels.



- 11.54. The habitats were considered either of low or negligible value. None of the trees were identified as potential for roosting bats although they may forage over the site. Any future clearance should be undertaken outside the bird breeding season-(March-August). A hand search is recommended for hedgehogs in any stone/wooden piles. Therefore it is not considered justified to undertake a phase 2 survey, but mitigation measures are recommended for breeding birds and hedgehogs.
- 11.55. Officers also highlight the compensatory tree planting measures which accounts for the partial likely future loss of lower category trees, with designated zones (P1 and P2) in the estate for both trees to be replanted for those to have been lost without a licence and those potentially lost through the development. It is important to note that the Forestry Authority raise no objections to these issues.

#### Affordable Housing

- 11.56. Policy SA3 of ALP3 specifies the criteria for the provision of local affordable housing within major developments. The application site is located in Zone A of the policy which restricts it to 10% of the total as local affordable units.
- 11.57. The provisions of Para 65 of the NPPF dictates that the type of tenure for these houses should be restricted to the delivery of solely “affordable home ownership”.i.e. low cost housing. This is accepted by the applicant within their draft terms of the proposed s106 supporting the development. The proposal is therefore compliant with policy SA3 of ALPP2 and the NPPF.

#### Public open space

- 11.58. The development has been assessed under the criteria of the councils SPD on developer contributions relating to amenity greenspace and provision for children and young people.
- 11.59. It identifies Amenity Greenspace as “This type of open space is most commonly found in residential areas and includes informal recreation spaces, green spaces and village greens. Their primary purpose is to provide opportunities for informal recreation activities for residents within the vicinity; however they also serve to provide visual breaks within built-up areas and enhance the appearance of developments.
- 11.60. It identifies Flimby settlement as having a marginal deficit of amenity greenspace provision (-0.09 ha) by 2029. It is therefore reasonable to require the provision of the delivery of amenity greenspace for the development. Under the thresholds of the SPD this equates to 59 x15sqm =885 sqm of amenity greenspace as part of the development scheme which has to be incorporated into the layout. (This is reserved under the s106)
- 11.61. The scheme also accounts for play provision as it also exceeds the SPD’s thresholds and whilst a limited scope of equipment could be provided within the site itself under the SPD, as it is approx. 300m distance from an existing play

area officers agree with the officers comments that it would be preferable to transfer this requirement to upgrade and expand the existing play park facilities which would be of benefit not only to the estate residents but the wider community. (These details will also be endorsed within the s106)

### Education

11.62. The County's assessment concludes there is sufficient capacity at local primary, junior and secondary schools to accommodate the proposed development. Therefore no education contribution to the County council is required for the proposal.

### Heritage

11.63. Policy S27 of ALPP1 Seeks to safeguard heritage assets. The proposal includes a heritage statement to address the impact of the development on the historic significance and setting of listed buildings within the immediate vicinity of the site.

11.64. The application is supported by a Heritage statement. The site was formerly occupied by Flimby Lodge which was a Grade II listed building (group value). It is evident from its listing description that at the time of listing in 1977 was in a derelict condition. There is no evidence of the buildings on site except hardstanding areas which reflect the footprint of the building.

11.65. Its mansion building was formerly a ladies boarding school (1860) followed being bought by the Cockermouth Poor law Union in 1886 using it as a workhouse school and vagrancy ward and recorded as a boy's home 1938.

11.66. The proposal would result in the loss of what little remains of this former listed building. (Officers consider that it appears the building has since been delisted as it is no longer on Historic England's records list). Therefore s16 of the listed buildings act it is no longer applicable as there is no direct impact on any listed structure.

11.67. Flimby cottage's Grade II listed building is sited on the opposite western side of the A596 highway. It comprises of a small two storey gothic lodge detached set back from the carriageway. The applicant's heritage statement emphasises that the buildings historic significance has changed considerably over time from its isolated origins being changed by the development of subsequent surrounding industrial landuses and infrastructure.

11.68. The Heritage statement highlights that the buildings has been the subject of previous extensions/alterations, but has retained its gothic frontage. A high level of landscaped screening on its highway frontage which largely screen the listed building and its respective features from public view. Consequently there would be little way of combined views with the development.

11.69. It is therefore considered the proposal would not impact on the building itself and despite the changes "preserve" its setting.

11.70. It is therefore concluded the works (would not result in any significant adverse harm to the setting of heritage assets in the locality of the site).

### Contamination

11.71. Policy S30 of ALPP1 specifies the criteria for addressing development of brownfield sites any associated contamination issues. The application is supported by a Geo environmental report (phase 1 desk top study).

11.72. The site is located to the south of what was formerly Risehow colliery which was closed in 1966, with the site being cleared and replaced with the industrial estate.

11.73. The report concludes there is a moderate risk with asbestos (fragments noted on the ground from the former use) and potential for ground gas. Further ground investigations are recommended. (conditioned)

### Social economic considerations

11.74. Whilst the bulk of the report highlights the main environmental considerations the applicant emphasises that social and economic aspects are also fundamental to the merits of the scheme as highlighted under the sustainable overarching objectives under the provisions of para 8 the National Planning Policy Framework (2021)

11.75. Officers acknowledge that these are very important consideration in evaluating not only the sustainability of the estate as an asset to the village itself and its associated services, but the wider Borough's housing supply.

## **12. Local Financial Considerations**

12.1. Having regard to S70 (2) of the Town and Country Planning Act the proposal will have financial implications arising from New Homes Bonus and Council Tax Revenue. These are of little or no weight in the determination of the application.

## **13. Conclusions**

13.1. The proposed site, especially given its partial brownfield status represents a windfall site within the designated settlement of Flimby. Albeit acknowledging there were local concerns on the scale of future development during the local plan process with only a small area of land being allocated , the sites retains a "local centre " status under the settlement hierarchy of Policy S3 of ALPP! And therefore represents sustainable location for housing growth (especially given the limited amount of development in past years)

13.2. Officers are aware of the past flooding events within the village, but by virtue of the submitted supporting evidence that this site would not be impacted, nor increase the flood risk to other properties elsewhere in the village. The principle and scale of development is considered acceptable at this sustainable location.

#### **14. RECOMMENDATION**

GRANT subject to planning conditions and a S106 encompassing the following obligation criteria.

- (i) 10% local affordable housing provision within the reserved matters application (low cost affordable units).
- (ii) Provision of commuted sum contribution based on the councils Developer contributions SPD( 59 x1.34x £120=£9,487) towards upgrade of the off-site Flimby play park (within 400m)
- (iii) Securing replanting and delivery of areas of woodland P1 and P2 and management /maintenance scheme for the public open space/amenity greenspace (885 sqm) and woodland management scheme for overall site

## Annex 1

### CONDITIONS

#### Time Limit:

- 1. Before any development commences details of the layout, scale and appearance, access and landscaping (hereinafter called ‘reserved matters’) shall be submitted to and approved by the Local Planning Authority.**  
Reason: The application has been submitted as an outline application, in accordance with the provisions of the details of the Town and Country Planning (Development Management Procedure) Order 2015.
- 2. The submission of all reserved matters applications shall be made no later than the expiration of 3 years beginning with the date of this permission and the development shall begin no later than whichever is the later of the following dates:**  
**(a) The expiration of 3 years from the date of the grant of this permission, or**  
**(b) The expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.**  
Reason: In order to comply with Sections 91 and 92 of the Town and Country Planning Act 1990.
- 3. The details submitted under the reserved matters application shall include a programme showing the phasing of the development to be submitted to and approved by the Local Planning Authority and the development shall not proceed other than in accordance with the approved programme.**  
Reason: To serve in the public and visual interests a satisfactory correlated order of the construction of the development in accordance with the National Planning Policy Framework and Policies S5 and DM14 of the Allerdale Local Plan (Part 1), Adopted July 2014.
- 4. The layout plans submitted under the reserved matters under condition 1 shall be solely within the “Residential development area” outlined on the approved 02 Parameters Plan Rev I, but shall exclude any buildings within the retained category A and B trees and their respective root protection areas as outlined on the approved 03 tree retention plan Rev I.**  
Reason: To minimise the impact of the development on the protected trees at the site in compliance with Policy S33 and DM17 of the Allerdale local plan (Part 1)
- 5. No trees on the site shall be felled on the site until a detailed landscape plan as part of the reserved matters under condition 1 of this consent (specifying all trees to be retained and the respective positions and height of protective fencing -including those under condition 4) and those to be felled has been submitted to and approved by the local planning authority. Any approved felling works shall only be undertaken following the commencement of works following the approval of all reserved matters.**  
Reason; To minimise the impact of the development on the protected trees at the site in compliance with Policy S33 and DM17 of the Allerdale local plan (Part 1)

6. **The reserved matters applications for layout and appearance shall demonstrate that 20% of the overall scheme will be designed and constructed to meet the requirements set out in optional Building Requirement M4(2) (or any equivalent standard should these regulations be subsequently reviewed).**

Reason: In order to comply with Policy SA5 of the Allerdale Local Plan Part 2.

**In Accordance:**

7. **The development hereby permitted shall be carried out in accordance with the following plans:**

**Amended plan 01 site boundary 14/11/22**

**Amended parameter plan Rev I 14/11/22**

**Amended 03 tree retention Rev I 14/11/22**

**Amended 04 Technical illustrative masterplan Rev I 14/11/22**

**8726/01 Topographical survey**

**PH/C4721/10511 phase 1 geo environmental report**

**ALM/200034/TS/00 Transport statement**

**Amended Dwg SCP/200034/ATR01 Rev D Swept path analysis 4/03/22**

**Amended SCP/200034/SK02 Rev B proposed access arrangement 4/03/22**

**Odour assessment 102551**

**Phase 1 Ecology survey**

**64/R1 Flood risk assessment**

**Furnace Gill Hydraulic assessment**

**Noise assessment 16/09/22**

**E mail dated 28<sup>th</sup> September 2022 amending title to 59 units**

Reason: In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

**Pre-commencement conditions:**

8. **The works shall be implemented solely in accordance with the Mitigation recommendations for bats outlined in Section 4 of the extended survey and appraisal dated March 2021.**

Reason: To safeguard the habitat of bats in compliance with the National Planning Policy Framework and Policy S35 of the Allerdale Local Plan (Part 1), Adopted July 2014.

9. **No development approved by this permission shall commence until all necessary site investigation works within the site boundary have been carried out to establish the degree and nature of the contamination and its potential to pollute the environment or cause harm to human health. The scope of works for the site investigations should be agreed with the Local Planning Authority prior to the commencement.**

Reason: To minimise any risk during or post construction works arising from any possible contamination from the development to the local environment in compliance with the National Planning Policy Framework and Policy S30 of the Allerdale Local Plan (Part 1), Adopted July 2014.

- 10. Should land affected by contamination be identified under the desktop study condition (10) following site investigations which poses unacceptable risks to human health, controlled waters or the wider environment, no development shall take place until a detailed remediation scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme must include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan.**

Reason: To minimise any risk during or post construction works arising from any possible contamination from the development to the local environment in compliance with the National Planning Policy Framework and Policy S30 of the Allerdale Local Plan (Part 1), Adopted July 2014.

- 11. No development shall take place until a Construction and Demolition Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include the following:**

- (a) Traffic Management Plan to include all traffic associated with the development, including site and staff traffic, off-site parking, turning and compound areas (outside the root protection area specified under Amended 03 tree retention Rev I 14/11/22);**
- (b) Procedure to monitor and mitigate noise and vibration from the construction and demolition and to monitor any properties at risk of damage from vibration, as well as taking into account noise from vehicles, deliveries. All measurements should make reference to BS7445.**
- (c) Mitigation measures to reduce adverse impacts on residential properties from construction compounds including visual impact, noise, and light pollution.**
- (d) A written procedure for dealing with complaints regarding the construction or demolition;**
- (e) Measures to control the emissions of dust and dirt during construction and demolition (including any wheel washing facilities);**
- (f) Programme of work for Demolition and Construction phase;**
- (g) Hours of working and deliveries;**
- (h) Details of lighting to be used on site;**
- (i) Highway signage/ Haulage routes.**

**The approved statement shall be adhered to throughout the duration of the development.**

Reason: In the interests of safeguarding the amenity of the occupiers of neighbouring properties and the amenity value of the TPO trees during the construction works of the development hereby approved, in compliance with the National Planning Policy Framework and Policy S32, S33 and S22 of the Allerdale Local Plan (Part 1), Adopted July 2014 and in the interests of highway safety.

- 12. The carriageway, footways, footpaths, cycleways etc. shall be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work**

**commences on site. No work shall be commenced until a full specification has been approved. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide. Any works so approved shall be constructed before the development is complete.**

Reason: To ensure a minimum standard of construction in the interests of highway safety.

- 13. Before any development takes place, a plan shall be submitted for the prior approval of the local planning authority reserving adequate land for the parking, unloading and turning of vehicles engaged in construction operations associated with the development and location of material stores and offices, and that land, including vehicular access thereto, shall be used for or be kept available for these purposes at all times until completion of the construction works.**

Reason: The carrying out of this development without the provision of these facilities during the construction work is likely to lead to inconvenience and danger to road users

- 14. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly. The drainage scheme submitted for approval shall also be in accordance with the principles set out in the Flood Risk Assessment & Drainage Statement dated October 2021. The development shall be completed, maintained and managed in accordance with the approved details.**

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. This condition is imposed in light of policies within the NPPF and NPPG.

- 15. Prior to the commencement of works a detailed noise mitigation scheme in accordance with the criteria outlined in para 7.2.3 of the Noise assessment 16/09/22 to ensure a satisfactory standard of residential amenity for the occupiers of any dwellinghouses approved at the site under the reserved matters of condition 1 shall be submitted to any approved by the local planning authority. The approved details for each respective dwellinghouse shall be fully implemented in accordance with the approved details prior to its occupation and retained at all times thereafter.**

Reason: To ensure satisfactory standard of residential amenity in accordance with policy S32 of the Allerdale local plan (Part1).



**Post-commencement/Pre use commencing conditions:**

- 16. No dwellings shall be occupied until the estate road including footways and cycleways to serve such dwellings has been constructed in all respects to base course level and street lighting where it is to form part of the estate road has been provided and brought into full operational use.**  
Reason: In the interests of highway safety
- 17. Should a remediation scheme be required under condition (11), the approved strategy shall be implemented and a verification report submitted to and approved in writing by the Local Planning Authority, prior to the development (or relevant phase of development) being brought into use.**  
Reason: To minimise any risk during or post construction works arising from any possible contamination from the development to the local environment in compliance with the National Planning Policy Framework and Policy S30 of the Allerdale Local Plan (Part 1), Adopted July 2014.
- 18. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority. Development on the part of the site affected must be halted and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These shall be implemented prior to the development (or relevant phase of development) being brought into use. All works shall be undertaken in accordance with current UK guidance, particularly CLR11.**  
Reason: To minimise any risk arising from any possible contamination from the development to the local environment in compliance with the National Planning Policy Framework and Policy S30 of the Allerdale Local Plan (Part 1), Adopted July 2014.
- 19. Prior to the first occupation of each dwelling, details for that dwelling shall be submitted to and approved in writing by the local planning authority of either:-**
- a) Evidence that the applicant will provide onsite access to broadband infrastructure providers during the construction process to allow the providers to install the necessary broadband infrastructure; or**
  - b) Evidence, following contact with broadband infrastructure providers, that it is not practicably or viably possible to install broadband infrastructure to achieve superfast (as defined by Government standards) fibre broadband connectivity.**
- Reason: To seek to secure sustainable superfast (as defined by Government standards) fibre broadband connectivity in accordance with policy SA33 of the Allerdale Local Plan Part 2 (2018).

**Other:**

**Advisory Note**

