



Appeal Decision

Inquiry Opened on 13 December 2022

Site visit made on 16 December 2022

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/G0908/W/22/3305389

Land West of St Andrews View, Thursby

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Hayward of Story Homes against the decision of Allerdale Borough Council.
 - The application Ref FUL/2022/0116, dated 20 May 2022, was refused by notice dated 11 July 2022.
 - The development proposed is described as "*Resubmission of application FUL/2021/0299 for the building of 67 residential dwellings with associated open space, infrastructure, landscaping and ancillary works including temporary construction access*".
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Decision

1. The appeal is allowed and planning permission is granted for 67 residential dwellings with associated open space, infrastructure, landscaping and ancillary works including temporary construction access at Land West of St Andrews View, Thursby in accordance with the terms of the application, Ref FUL/2022/0116, dated 20 May 2022, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of development given in the header, above, is taken from the Council's Decision Notice rather than the planning application form as this provides a more precise description of the proposal.
3. The description of development given in my formal decision omits some of the text given on the Decision Notice. The omitted text simply states that the proposal is a resubmission of a previous scheme, and it therefore does not describe acts of development.

Application for Costs

4. At the Inquiry an application for costs was made by Mr David Hayward of Story Homes against Allerdale Borough Council. This application is the subject of a separate Decision.

Main Issue

5. The main issue is whether the development would provide satisfactory living conditions for future occupiers with regard to noise and disturbance, and shadow flicker.

Reasons

Noise and disturbance

6. The appeal site comprises open agricultural land on the western edge of Thursby. It is adjacent to Low Road to the south, and the A595 to the west, which is a busy main road connecting Carlisle to the towns of western and southern Cumbria. Traffic along these roads generates significant noise that is audible across the site, as I observed on my visits.
7. The development proposes a number of mitigation measures to address traffic noise, including an acoustic bund and fence along the A595, and acoustically treated glazing and ventilation to some properties. In this regard, a total of 43 dwellings would be fitted with acoustically treated glazing and ventilation, including several that would have this treatment fitted to most or all of their habitable room windows. However, this mitigation would only be effective when the window was closed. This would mean that future residents who chose to open those windows would be likely to experience noise in excess of the World Health Organisation ('WHO') guideline levels.
8. The use of acoustic glazing and ventilation is not uncommon on sites next to main roads, and several examples were discussed at the Inquiry, including at the adjacent 'phase 1' development. In this regard, traffic noise from main roads is not restricted to urban locations. Furthermore, the appellant's evidence demonstrates that even a much smaller development at the site would require acoustic glazing and ventilation for properties facing the A595 and Low Road. Policy SA29 of the Allerdale Local Plan (Part 2) (2020) also recognises the need to mitigate road traffic noise in allocating this site.
9. The proposed trickle vents would allow adequate ventilation into the properties, as required by the Building Regulations. Whilst some people may prefer to sleep with a window open, that is a personal preference, and any future residents would be aware of the presence of the road before choosing to occupy a property. I further note that the Council's Environmental Health section have raised no objection to this aspect of the proposed mitigation. In terms of the rear garden spaces, all of these would achieve noise levels below the upper guidance specified by the WHO (55 dB) for outdoor living areas.
10. The proposed open space would be located next to both the A595 and Low Road in the southwest corner of the site and would be exposed to noise in excess of 55 dB. This area would be likely to be used for informal recreation and would be less sensitive than private rear gardens in this regard. It was highlighted at the Inquiry that there are no guidelines for noise levels within such spaces, and I do not consider that guidelines for school playgrounds should be applied to the informal recreation area, as unlike a school playground, it is unlikely to be used for teaching purposes. Moreover, some mitigation would be provided by the proposed bund and fence, and the predicted noise levels would not deter, or significantly undermine the enjoyment of, its use in my view. The bund itself would be appropriately

landscaped which would ensure that it would not be an unduly alien or imposing feature when viewed from the open space.

11. The northern edge of the development would not be protected by the acoustic bund and fence. However, those properties would be positioned further away from the road, and their front elevations would act as a sound barrier to the gardens and properties to the rear. With acoustic glazing and ventilation, the front rooms of these properties would also meet the relevant WHO guidelines.
12. The topography of the site is varied, however, this has been taken into account in the noise modelling that has underpinned the Noise Assessment (NJD Environmental, May 2022). The proposed mitigation measures have also been designed to mitigate the highest noise level that was measured during the noise survey period, which will have included any noise arising from the rumble strips to the north. Whilst the noise survey was unattended, that is not unusual, and it allows for measurements to be taken over a longer time period. I further note that there were technical issues with 2 sound level metres during the survey period, however, sufficient data was obtained in order to inform the assessment. At the Inquiry, the appellant's noise witness stated that an additional monitor to the north of the site would not have benefitted the Noise Assessment, and there is no technical evidence before me to contradict this.
13. The monitoring underpinning the Noise Assessment was undertaken in dry weather conditions. In this regard, my attention has been drawn to a study produced by Bialystok Technical University¹ which sought to compare vehicle noise on dry and wet road surfaces. This study found a significant increase in vehicle noise associated with wet surfaces. However, this study does not appear to have been accepted by the Department for Transport ('DfT') or any other UK regulatory body. Moreover, current DfT guidance states that such measurements should be undertaken when roads are dry. I further note that the Council's Environmental Health section has not raised any concerns in this regard.
14. My attention has also been drawn to a noise measurement of 70.2 dB that was recorded by a Rule 6 party from along Bouch Way. However, that measurement represents an instant in time and is not an LAeq measure, which is an average over a longer time period albeit with a bias towards the noisier events that occur. It therefore doesn't appear that there is an inconsistency between this measurement and the noise modelling produced by the appellant.
15. An appeal decision² has been submitted that relates to a development in central Birmingham that also proposed acoustic glazing and ventilation measures. However, whilst the full details of that case are not before me, I note that the main source of noise was from night-time economy uses including those with live and recorded music licences. In this regard, the Inspector specifically refers to the 'agent of change' principle at paragraph 187 (then paragraph 182) of the National Planning Policy Framework ('the Framework'). This states that existing businesses should not have unreasonable restrictions placed upon them as a result of development permitted after they were established. This is of particular relevance as action can be taken against any premises that is causing a statutory noise nuisance under the Environmental Protection Act 1990. Those considerations clearly do not apply here.

¹ 'Comparison of Vehicle Noise on Dry and Wet Road Surfaces' (2007)

² Ref APP/P4605/W/18/3217413

Accordingly, I have come to my own view on the development, based on the evidence before me.

16. It was also put to me that the height and mass of the proposed acoustic bund would have an overbearing effect on the proposed dwellings. However, the bund would be set back from the nearest properties facing onto it, and it would be appropriately landscaped. Accordingly, I do not consider that it would result in unacceptably poor outlook for future occupiers.
17. Separately, noise from the nearby wind turbine was discussed at the Inquiry, and I heard this during my formal visit. Whilst this noise was clearly audible from within the appeal site at certain times, the dominant source of noise was from the road, and particularly the A595. In this regard, it is common ground that road traffic noise is the main noise source affecting the site.
18. For the reasons given above, I am satisfied that noise would not cause a significant disturbance to future occupiers of the development.

Shadow flicker

19. The appeal site is located approximately 300 metres to the north of an existing wind turbine, which is 74 metres in height and in an elevated position. It is within 10 rotor diameters of this turbine, and it is therefore likely that proposed dwellings would be subject to shadow flicker exposure during winter months.
20. There is currently no formal guidance or standard methodology in England relating to shadow flicker exposure. However, an 'Update of UK Shadow Flicker Evidence Base' report by Parsons Brinckerhoff, prepared for the Department of Energy and Climate Change, has been submitted which summarises the guidelines that are applied in different countries. In particular, it refers to guidance in Northern Ireland that applies quantitative limits of 30 hours per year or 30 mins per day in relation to shadow flicker exposure. The appropriateness of these measures was not questioned by any party at the Inquiry.
21. A Shadow Flicker Assessment (Neo Environmental, May 2022) has been submitted in support of the appeal proposal. This modelled the effect of shadow flicker on the proposed dwellings using an industry standard model. Using this model, a number of the proposed dwellings would be subject to shadow flicker exposure in excess of 30 hours per year or 30 mins per day.
22. The model used in this initial assessment assumed that the wind turbine is always orientated towards the development, always rotating, and that there is 100% sunshine during the winter months. Accordingly, it does not represent real world conditions. Subsequent modelling by the appellant then factored in average sunlight hours across the winter months using official Met Office data for Carlisle, which took into account times of cloud cover. This significantly reduced the average shadow flicker exposure to the proposed dwellings, which were then within guideline levels. This is a reasonable approach in my view, and it was supported by the Council's Environmental Health section. Moreover, the Shadow Flicker Assessment makes no allowance for times when the turbine is facing away from the development, or for when the wind is not strong enough to rotate the turbine. In this regard, the turbine was still during my first site visit, and only began to rotate part way through my second visit.

23. The analysis in the Shadow Flicker Assessment factors in likely cloud cover and therefore does not represent a worst case scenario. Accordingly, it is likely that there would be some days during the winter months when proposed dwellings would be exposed to in excess of 30 minutes of shadow flicker on a given day. However, that would not be the case on most days, and under typical conditions this level of exposure would not occur. In this regard, the Met Office data for Carlisle indicates that there is cloud cover on most days during the winter months, and on other days the turbine will either be stationary or facing away from the development. The Northern Ireland guidance cited in the Parsons Brinckerhoff report also acknowledges that the frequency of bright sunshine and cloudless skies affects the likelihood and duration of any shadow flicker effect.
24. A number of errors have been highlighted in the Shadow Flicker Assessment, including an incorrect rotor diameter and incorrect figures within tables. During the Inquiry, the appellant's shadow flicker witness stated that these were copy and paste and template errors that were the result of human error. Whilst this is unfortunate, there is no evidence before me that these errors fed into the model itself and affected the outputs. In this regard, it was stated that these had been double-checked and were found to be correct. Whilst there are acknowledged errors within the text of the report, it does not follow from this that there are necessarily errors in the model outputs, and there is no technical evidence before me to support this contention.
25. Existing residents on Bouch Way stated that they currently experience shadow flicker during winter months and that this can be a source of annoyance, including when working from home. It was also stated that shadow flicker has been experienced for in excess of the figures presented in the Shadow Flicker Assessment. However, those figures are acknowledged to be averages that will be exceeded under certain conditions. Some properties on Bouch Way are also within 10 rotor diameters of the turbine and so would be expected to be subject to shadow flicker exposure if their windows are orientated towards the turbine. In this regard, the guidance detailed in the Parsons Brinckerhoff report accepts that a level of shadow flicker exposure is considered acceptable, depending on its extent.
26. It was asserted that the appellant should have discussed both noise and shadow flicker with existing residents who have experience of living with these on the 'phase 1' development. However, there is no requirement to do this in any guidance, and in any case, noise and shadow flicker are matters that require technical analysis. It was also asserted that guidance should be seen as a baseline to be exceeded rather than a minimum to be achieved. However, that is not the way in which existing guidance is framed. Moreover, in relation to both noise and shadow flicker this guidance has been produced based on the health effects of exceeding certain thresholds.
27. The potential effects of shadow flicker on future occupiers with photo-sensitive epilepsy was also the subject of discussion at the Inquiry. However, the appellant's shadow flicker witness stated that the existing turbine does not rotate fast enough to trigger epileptic seizures. In this regard, the Parsons Brinckerhoff report notes that most commercial wind turbines in the UK rotate too slowly for this to occur.

Conclusion on the main issue

28. For the above reasons, I conclude that the development would provide satisfactory living conditions for future occupiers with regard to shadow flicker, noise and disturbance. It would therefore accord with Policies S32 and S24 of the Allerdale Local Plan (Part 1) (2014). These policies seek to ensure, amongst other things, that new developments promote high quality, attractive places which allow for direct contact with the natural environment, and are not subject to poor standards of residential amenity.
29. The Decision Notice also refers to conflict with Policy S19 of the Allerdale Local Plan (Part 1) (2014). However, the Council and appellant subsequently agreed that there is no conflict with this policy, which relates to proposals for new renewable and low carbon energy. I see no reason to take a different view. Whilst the supporting text to the policy states that a minimum separation distance of 800 metres between wind turbines and residential properties will be expected, that is not a requirement of the policy wording itself. In this regard, the supporting text does not have the force of policy and it cannot trump the policy wording.

Other Matters

Planning obligation

30. A signed and dated planning agreement has been submitted that relates to onsite affordable housing provision and a financial contribution towards monitoring of the Travel Plan. With regard to affordable housing, this is clearly necessary in order to meet local need and to comply with Policy S8 of the Allerdale Local Plan (Part 1). With regard to a financial contribution towards monitoring of the Travel Plan, this is based on a standard calculation that is agreed by both main parties. I am satisfied that both of these contributions are necessary to the acceptability of the development in planning terms and are fairly and reasonably related in scale and kind to it.

Other considerations

31. The appeal site is allocated for residential development in the Allerdale Local Plan (Part 2) (2020) under Policy SA29. Regardless of the changes that were made to the Local Plan during the course of its preparation, it was found to be 'sound' by the examining Inspector in its current form. I must therefore consider it on that basis. Whilst it was put to me that the site should be deallocated, the mechanism for this would be either through a Local Plan review or the preparation of a new Local Plan. In this regard, there is no indication that such a course of action is being pursued. Whilst I note that Policy SA29 gives the site capacity as being 40 dwellings, this is an indicative figure only and it does not represent a cap.
32. There has been a loss of services in Thursby since the site was allocated, including the closure of a shop and a public house. However, that does not alter its status as a Local Service Centre under Policy S3 of the Allerdale Local Plan (Part 1) (2014). Moreover, other services are available in Thursby including a primary school, village hall, and regular bus services. In this regard, I consider the appeal site to be in a relatively accessible location.
33. Reference has been made to local government restructuring in Cumbria. However, that would not in itself alter the status of the Allerdale Local Plan

- (Parts 1 & 2). In any case, I am required to determine the appeal against the current development plan for the area at the time of my Decision.
34. It is asserted that were the appeal to be allowed, then it would set a precedent for other housing developments in Thursby. However, unlike other sites in the vicinity that have been highlighted, the appeal site is allocated for residential development and is distinct in this regard.
35. The development would be visible from a number of surrounding viewpoints including from nearby footpaths, roads and footways. However, the site is well contained by existing roads and the 'phase 1' development, and the effect of any loss of views would be localised and relatively minor. Moreover, given that it is allocated for residential development some visual change is inevitable. In terms of the proposed bund along the A595, this would be appropriately landscaped, and it would be seen mainly by motorists passing by at high speed. Accordingly, I do not consider that this would create a negative perception of Thursby when viewed from the road. The proposed density and layout would also be consistent with the adjacent 'Phase 1' scheme, and it would not be out of keeping with the existing village in this regard.
36. The separation distances between the new and existing houses would be appropriate and comparable to those between dwellings in the existing 'phase 1' development. It would not result in any significant loss of privacy to existing residents in my view. Whilst it is asserted that the development would result in the loss of spacious views across the site, a change of view from a private window is not in itself regarded as a planning consideration.
37. The proposed play area would be located at a T-junction that would be passed by the majority of traffic entering or leaving the development. However, the traffic along this route would be limited and vehicles would be likely to be travelling at low speeds. Moreover, the play area would be surrounded by steel fencing which would prevent small children running out into the road. It is not uncommon for play areas to be located next to estate roads and this location would not create a safety risk in my view. I further note that the Highway Authority has not objected to the development on safety grounds. Moreover, the play area would be highly visible and overlooked by neighbouring houses and so would be unlikely to attract anti-social behaviour.
38. The submitted Transport Assessment (Eddisons, May 2022) indicates that the development would be likely to generate 53 additional two-way vehicle movements during the morning peak hour (08:00 to 09:00), which equates to an average of less than 1 a minute at the busiest time. This level of additional traffic would not exceed the capacity of the nearby junction between Low Road and the A595, nor would it result in any severe residual cumulative impacts on any other part of the road network. I further note that the Highway Authority has not objected to the development on these grounds.
39. The appeal site is neither within, nor in close proximity to, an Air Quality Management Area, and the proposed dwellings would be set back from the road behind a raised bund. The Council's Environmental Health section has also raised no objection to the development on air quality grounds.
40. The appeal proposal is supported by a Preliminary Ecological Appraisal (Envirotech, Ref 3943) which concludes that the development can take place without any significant harm to ecology. Moreover, the development would

deliver in excess of a 10% net gain in biodiversity. Accordingly, there would be no significant harm arising to ecology in this case.

41. The existing hedgerow along the western edge of the 'phase 1' development is proposed to be removed. However, this is a recently planted area that has not fully matured and is varied in its height and depth. Any acoustic mitigation that it currently provides would be more than compensated for by the barrier that would be created by the proposed dwellings.
42. Reference was made at the Inquiry to other housing developments in the village and in the wider area. However, those schemes do not alter the status of the appeal site as a housing allocation, where residential development is considered acceptable in principle.
43. The appeal site has been subject to public consultation both in relation to its allocation in the Allerdale Local Plan, and the recent planning applications for housing development. Some alterations to the development have been made as a result of consultation responses. Whilst local objections to the proposal remain, I consider that adequate consultation and engagement has taken place.
44. The previous planning applications at the site, and the documents associated with them, are not within my remit in determining this appeal. Similarly, the purported conduct of the developer during the construction and sale of the 'phase 1' development is not directly relevant to this appeal.
45. It was asserted that the visual impact of passing HGVs and other traffic would be intrusive to future occupiers of the development. However, it is not uncommon for housing developments to be located near to busy main roads that are used by larger vehicles. Moreover, there would be a degree of separation between the proposed dwellings and the road itself. Accordingly, any such visual impact would not be significant in my view.
46. The proposed housing mix is comparable to the existing 'Phase 1' development and would mainly comprise detached properties with some terraced and semi-detached housing. This mix is appropriate to the character of the area.
47. The development would be constructed to modern energy efficiency standards as required under the Building Regulations.
48. It is common ground that the Council is able to demonstrate a 5 year supply of deliverable housing sites, as required by the Framework.

Conditions

49. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. A condition relating to the construction of the carriageways, footways, and footpaths is necessary given that it is agreed that these will be adopted. A condition relating to the implementation of the drainage layout is also necessary to ensure that the site is appropriately drained. Further conditions relating to trees and a Construction Traffic Management Plan are necessary to ensure the protection of retained trees during the construction process, in the interests of highway safety, and to ensure the fabric and operation of the highway network

is not adversely affected. These conditions are pre-commencement in nature as they will either inform the construction process or relate to works below ground level. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant has agreed to these conditions in writing.

50. Conditions relating to biodiversity enhancements and landscaping are necessary to implement the recommendations of the Preliminary Ecological Appraisal (Envirotech, Ref 3943) and to ensure that the site is appropriately landscaped. Conditions relating to the acoustic bund and other noise mitigation measures are also necessary to protect the living conditions of future occupiers. Further conditions relating to the estate roads, footways, vehicular accesses, parking, turning facilities, superfast broadband, boundary treatments, and the proposed play area are necessary to ensure that these facilities are in place to serve future occupiers. An additional condition relating to contamination is necessary to ensure that any unanticipated contamination is remediated. Finally, conditions relating to the Construction and Environmental Management Plan, and external materials, are necessary in order to protect the living conditions of neighbouring occupiers during the construction process and to ensure a satisfactory appearance.

Conclusion

51. For the reasons given above I conclude that the appeal should be allowed.

Thomas Hatfield

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20091.90.9.SL.LP Rev A; 20091.90.9.SL.CL Rev D; 20091.90.9.SL.GA Rev C; 210920-THURSBY-SH-TOPO-001 Rev B; 20091.90.9.SL.ET Rev C; 20091.90.9.SL.HS Rev C; 20091.90.9.SL.PP Rev C; 20091.90.9.SL.BT Rev D; SD100-A-001 Rev A; SD100-A-002.1 Rev A; SD100-A-002.2; SD100-A-004 Rev A; SD100-A-005 Rev A; SD100-A-012; SD100-B-001 Rev A; SD100-C-001; SD100-C-002; SD100-C-003; SD100-C-004; SD100-C-005; SD100-D-001; 20091.90.9.SL.ML Rev C; 20091.90.9.SL.SS Rev B; 7628/07 Rev J; 20091.90.9.SL.ASSD Rev C; SHTP2-WW01-K; SHTP2-WW02-K; 7628/01 Rev K; 20091.90.9.SL.CSWMP Rev E; 20091.90.9.SL.LOP Rev C; BFD-PLP1 Rev A; BFD-PLP1/1 Rev B; BFD-PLP1/2 Rev B; SAN-PLP1 Rev C; SAN-PLP1/1 Rev C; SAN-PLP1/2 Rev C; SAN-PLP1/3 Rev C; FFD-PLP1 Rev B; FFD-PLP1/1 Rev B; FFD-PLP1/2 Rev B; WXD-PLP1 Rev B; WXD-PLP1/1 Rev B; WXD-PLP1/2 Rev B; WXD-PLP1/3 Rev B; WXD-PLP2/3 Rev B; WXD-PLP2 Rev B; WXD-PLP2/1 Rev B; WXD-PLP2/4 Rev B; SPR-PLP1 Rev C; SPR-PLP2 Rev C; SPR-PLP1/1 Rev D; SPR-PLP1/2 Rev D; SPR-PLP2/1 Rev D; SPR-PLP2/2 Rev D; BFK-PLP1; BFK-PLP1/1; BKF-PLP1/2; BFK-PLP2; BKF-PLP2/1; BKF-PLP2/2; PRN-PLP1 Rev D; PRN-PLP1/1 Rev D; PRN-PLP1/2 Rev D; HWN-PLP1 Rev B; HWN-PLP1/1 Rev D; HWN-PLP1/2 Rev D; HWN-PLP1/3 Rev D; RFD-PLP1 Rev A; RFD-PLP1/1 Rev A; RFD-PLP1/2 Rev A; NWF-PLP1; NWF-PLP1/1; NWF-PLP1/2; CRN-PLP1 Rev A; CRN-PLP1/1 Rev C; CRN-PLP1/2 Rev C; CRN-PLP1/3 Rev C; CRNXL-PLP1; CRNXL-PLP1/1; CRNXL-PLP1/2; CRNXL-PLP1/3; SG-PLP1/1 Rev A; SG-PLP1/2 Rev A; SG-PLP2/1; SG-PLP2/2; SG-PLP3/1; SG-PLP3/2; 20091.90.9.SL.AM Rev B; SHTP2-WW03A.

Pre-commencement conditions

- 3) The carriageway, footways, and footpaths 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 and approved in writing by the Local Planning Authority before any part of the development hereby permitted is commenced. These details shall be in accordance with the standards laid down in the Cumbria Design Guide, or any successor document. Any works so approved shall be constructed before the development is fully occupied.
- 4) No development shall take place until a phasing plan for the full implementation of the approved drainage layout (drawing Ref 7628/01) has been submitted to and approved in writing by the Local Planning Authority. The drainage layout shall be implemented in accordance with the approved phasing plan and shall be maintained as operational thereafter.
- 5) No site clearance, preparatory work or development shall take place until an arboricultural method statement in accordance with the submitted Tree Protection Plan (Ref UG_761_ARB_TPP_01 Rev 05), Tree Protection Index (Ref UG_761_ARB_TPI_01), and paragraph 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction -

Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved.

[In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]

- 6) No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include details of:
- i) arrangements and timescales for repairing any damage to the road as a result of construction traffic/works, based on a pre-construction road condition survey conducted with a representative of the Highway Authority;
 - ii) proposed crossings of the highway verge;
 - iii) retained areas for vehicle parking, manoeuvring, loading and unloading during the development;
 - iv) cleaning of site entrances and the adjacent public highway;
 - v) wheel washing facilities;
 - vi) the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
 - vii) construction vehicle routing;
 - viii) the management of junctions to and crossings of the public highway and other public rights of way/footway;
 - ix) any proposed temporary access points (vehicular/pedestrian) and any proposed TTRO necessitated by this development; and
 - x) adherence to the Construction Surface Water Management Plan (Ref 20091.90.9.SL.CSWMP Rev E), including an implementation timetable.

The approved Construction Traffic Management Plan shall thereafter be implemented and adhered to.

Prior to development above ground level conditions

- 7) No development shall take place above ground level until a scheme of biodiversity enhancements and an implementation timetable have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved scheme and timetable.

Pre-occupation conditions

- 8) All landscaping works shall be carried out in accordance with the Landscape Plan Ref SHTP2-WW01 Rev K and to a timetable that shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The landscaping works shall thereafter be maintained in accordance with the Landscape Maintenance and Management Plan (Westwood Landscape, Rev C 22.06.22).

- 9) The proposed acoustic bund and fence alongside the A595 shall be completed prior to the first occupation of the development.
- 10) Prior to the first occupation of each dwelling, the proposed acoustic mitigation measures for that dwelling, as set out in the Noise Assessment (NJD Environmental, May 2022), shall be implemented in full.
- 11) Prior to the first occupation of each dwelling, the estate road and footways to serve that dwelling shall be constructed in all respects to base course level, and street lighting along those routes shall be provided and brought into full operational use.
- 12) Prior to the first occupation of each dwelling, the vehicular access, parking and turning facilities shall be constructed for that dwelling in accordance with the approved plans and shall be brought into use. The vehicular access, parking and turning facilities shall thereafter be retained for those purposes.
- 13) Prior to the first occupation of each dwelling, it shall be provided with a superfast fibre broadband connection unless clear evidence that such a connection could not practicably or viably be installed has first been submitted to and approved in writing by the Local Planning Authority.
- 14) Prior to the first occupation of each dwelling, the approved boundary treatments for that dwelling as shown on drawing Ref 20091.90.9.SL.BT Rev D, shall be completed.

Other conditions

- 15) Prior to the occupation of the 40th dwelling, the proposed play area and equipment, as shown on drawing Ref SHTP2-WW03A and the Proposed Housing and Open Space Proposed Play Area Images (Westwood Landscape, 17.05.22), shall be completed and made available for use.
- 16) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the 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.
- 17) The development shall be carried out in accordance with the Construction and Environmental Management Plan (May 2022). Subject to the scheme of biodiversity enhancements submitted under condition 7, demolition or construction works shall only take place between 7.30am – 6:00pm Monday to Friday, 8:00am – 1:00pm Saturdays, and not at any time on Sundays or Bank Holidays.
- 18) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be those identified in the Material Samples schedule received by the Local Planning Authority on 6 June 2022.

APPEARANCES

FOR THE APPELLANT:

Ian Ponter, Kings Chambers of Counsel	instructed by Barton Willmore
He called:	
Michael McGhee BSc TechIOA	Director, Neo Environmental
Nichola J Dixon-Boak CSci MIOA	Director, NJD Environmental Associates
Matthew Dawber BA (Hons) MCD MRTPI	Associate Director, Barton Willmore

FOR THE LOCAL PLANNING AUTHORITY:

Nicola Allan, Trinity Chambers of Counsel	instructed by Allerdale Council
She called:	
Cllr Nicky Cockburn	Local Councillor
Rachel Lightfoot MRTPI	Director, Summit Town Planning

FOR THURSBY PARISH COUNCIL (RULE 6 PARTY):

Cllr Colin Edgar	Parish Councillor
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FOR ST ANDREWS VIEW COMMUNITY GROUP (RULE 6 PARTY):

Richard Noons MEng, BEng (Hons)	Thursby resident
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INQUIRY DOCUMENTS

- ID1 Appellant's list of appearances
- ID2 Opening submissions on behalf of the appellant
- ID3 Opening submissions on behalf of the Council
- ID4 Appellant's costs application
- ID5 Community Infrastructure Levy - Statement of Compliance
- ID6 Appellant's reply to the Council's costs application response
- ID7 Council's closing submissions
- ID8 Thursby Parish Council closing submissions
- ID9 Appellant's closing submissions
- ID10 St Andrews View Community Group closing submissions
- ID11 Council's costs application response