



29th April 2013

Mr. Simon Berkeley
The Government Inspector
c/o The Strategy Team Manager,
South Lakeland House
Lowther Street
Kendal LA9 4DL



Dear Mr. Berkeley,

LAND DEVELOPMENT R121M-mod (Kendal)

I wish to comment on the above modification document for the following reasons.

SLDC are still undecided as to where an access road or roads will go, i.e. Castle Green Road or Oak Tree Road/Rowan Tree Crescent, or both. Any access will have a seriously detrimental impact on the landscape, the Great Crested Newts' network of ponds, their terrestrial habitats and emergence zones, and on flooding.

Positioning of an Access Road into R121M

At the recent Hearing, Mr. McGough from the Highways Department stated, "My preferred option I think would be to access off the main road A65 [he actually meant the A684], and I must again say that this is purely an engineering response not a landscaping one.....I would then expect also a link through to Oak Tree Road".

Even in the SLDC modification document, the A684 is **still referred to as the A65**, despite being advised to the contrary at the hearing.

This reference to Oak Tree Road represents at least the third change of mind about access into this proposed site and illustrates that it is nothing less than a desktop exercise. It is completely unacceptable that we can potentially be so close to approval of a site such as R121M when fundamental issues such as access have not been properly thought through.

Whilst consultants have recently declared Oak Tree Road as being acceptable as a potential access point, a site visit would show that the road simply isn't wide enough to take additional through traffic. It is so narrow that local residents are forced to park on the pavements to enable other drivers to see clearly.

The photographs of the road that AECOM are using are totally misleading. Photographs 1 and 2 are distorted and makes the road much wider than it is in reality. Photograph 3 is sloppy and pointless as the viewpoint looks down to Castle Green Lane. It should have been done in reverse, to illustrate the whole area of the allocation site. If they are considering access off Castle Green Lane, why did they not take photographs of it? All this uncertainty again underlines my fear that this is a desktop exercise. What is certain is that the road (or roads) will scar this most highly sensitive area (previously referred to as R56 and R141) in order to allow access to R121M, which was worthy of County Landscape designation in 1999.

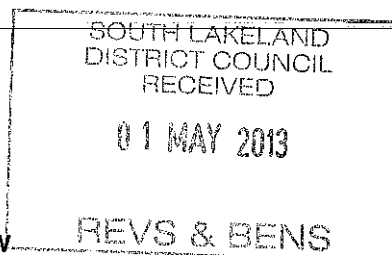
The Council has failed to deliver a meaningful infrastructure delivery plan, transport plan or air quality plan to meet the scale of developments proposed.

Question 1: Does Oak Tree Road meet all of the Highways Department's criteria for a through road providing access to the proposed development?

Question 2: What is the justification for allowing access across R141 (which has high landscape value) when planning regulations state that this could only be possible if it were to allow access onto a 'major site', which this is not?

If access is taken off Oak Tree Road/Rowan Tree Crescent, SLDC have failed to foresee the problems that this would incur, such as:

- Narrowness of road (4.25 metres) at certain key points
- Existing difficulties for traffic passing
- Current perceived need for parking on the pavement
- Steepness and angle of north-facing exit onto A684
- Relatively long-term treacherous road conditions in frost and snow
- Possible access onto R56 was disregarded by the developers and Inspector in 1999, and did not feature as such in the Atkins Report in 2009
- Unviability for two-way traffic, especially at access points and outside 41-49 Oak Tree Road and 16 Rowan Tree Crescent
- The cul-de-sac at the top of Oak Tree Road faces the wrong way and a 180 degree loop would be required over R56 and R141 to gain access onto R121. Neither of the two former fields are intended to take dwellings, being for access and SUDS purposes only
- The number and volume of additional cars generated by approximately 60 houses, would more than double the current volume and problems
- Inaccessibility for construction vehicles
- Current waiting times onto the A684, which is now a rat-run in its own right



Point 69 in the National Planning Policy Framework Document states that:

Local Planning Authorities should **create a shared vision** with communities of the residential environment and facilities they want to see. To support this, Local Planning Authorities should **aim to involve all sections of the community** in the development of local plans and in planning decisions, and should facilitate **neighbourhood planning**. They should promote safe and accessible developments, containing clear and legible pedestrian routes, and high quality public spaces.

Since 2009, I and many other residents have been seeking answers from SLDC on a number of questions relating to site R121M which, in our view, has a significant bearing on the validity of the decision-making process. It was clear at the Hearing that Mr. Hudson (SLDC) did not answer the many questions we had raised in our submissions. Mr. Hudson and his team have **failed to communicate and engage with the local community and taken little notice of our concerns**. In fact, SLDC has consistently ignored the concerns of local residents, organisations, groups, and elected bodies. And at the Hearing, Mr. Hudson told us nothing at all.

According to the Harman Report:

Local Plans need to deliver development that **reflects community aspirations, is of high quality and protects the natural environment**, is serviced by the necessary infrastructure and supports the transition to a low carbon economy in order to mitigate the impact of climate change.

400 residents signed a petition to oppose this development on the grounds that building 60 houses, 60 cars or possibly 90 cars plus (increasing the already high carbon dioxide levels), with 60 car parking spaces, access road/roads, street lighting and signage will utterly destroy a beautiful, historical landscape with its biodiversity, especially the Great Crested Newts' pond networks, terrestrial habitats and emergence zones. Building on this landscape will have a devastating impact on the G.C.N.'s colony, possibly extinction. Our aspirations are to enjoy this historical landscape (which has been here for centuries) with all its biodiversity.

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In the National Policy Framework Policy Document, point 109 states: 01 MAY 2013

"Minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures". Point 118 states that "When determining planning applications, Local Planning Authorities should aim to conserve and enhance biodiversity".

The pond within R121M with the colony of Great Crested Newts has been long established and is shown on an 1867 map, making it at least 146 years old. It is a significant point that the Ordnance Map being used by SLDC for the land allocation process shows a small circular feature, not marked specifically as a pond. On the assumption that this represents the pond, it is shown as being much smaller than it now actually is. The pond extends into the next field. And in R56 there is a gully with a vernal pond. Similarly, the map does not correctly show the actual extent of the reed beds, old orchard and other important topographical features.

Question 3: Is SLDC using a map which shows the pond within R121M at its correct size or is it still basing its assumptions on an old, incorrect OS map?

On the question of Landscape & Biodiversity, particularly the Great Crested Newts, Mr. Hudson stated "the pond is actually outside the site". This is untrue. It is actually within the site. We worked out that if an access road was developed through R56 it would be within 10-20 metres of the pond. It is illegal to build within 500 metres of a Great Crested Newts' Colony.

Great Crested Newts have suffered a major decline over the last century and much of its habitat is fragmented by unfavourable land use. The loss of grassland, scrub, and woodland means that there are fewer opportunities for foraging, dispersal and hibernation.

Question 4: Has SLDC carried out a detailed appraisal of the impact of development on the great crested newts population as was required in the Core Strategy DPD, Inspector's Report, August 2010?

Question 5: Has SLDC considered the costs of mitigating for the C.G.N.'s terrestrial habitats? | Castle Green Hotel dropped their plan of building a car park because the mitigating costs were too costly and unviable.

Question 6: Has SLDC considered the impact of drainage on (R56)? It could have devastating consequences on the complex hydrology of these fields and cut off essential supply of water to the pond in R677K.

SLDC will have to employ a consultant with a thorough knowledge in pond ecosystems, including an understanding of hydrology, aquatic vegetation and invertebrates, can be crucial to good survey and

mitigation planning. As Professor Jackson stated in his report this site has a **complex hydro/geology**. The greater the predicted impact (60 houses, 90 plus cars, 60 car parking spaces, roads, pavements, street lighting which will create more light pollution, and signage) the greater the level of mitigation will be required. The scale of impacts at the site level, taking into account the proximity of activities to breeding ponds. Great crested newts can migrate more than **500 metres** from their breeding ponds in areas of suitable terrestrial habitat.

Habitat loss

Both the **loss of breeding ponds and terrestrial habitat** can have significant impacts upon great crested newts since newts **live on land for the majority of their lives**. It is important to understand that all young newts spend their first three years living almost exclusively away from the pond. All adult newts spend up to eight months of every year out of the pond living in the landscape and its surrounds. They need access to old drystone walls, soft marsh grasses, undisturbed logs, tree trunk roots and spaces under large stones.

Populations can be reduced or even go extinct where there is a major loss of habitat due to reduced foraging, breeding and refuge opportunities.

Consequently, the mitigation strategy must ensure that there is no net loss of habitat (be it breeding ponds or terrestrial habitat) for newts changing an area of rough grassland used by newts as terrestrial habitat into amenity grassland could have a negative impact on the population. Therefore the mitigation strategy should ensure that there is **no net loss in quantity and quality of habitat**.

Habitat fragmentation and isolation

Habitat fragmentation and isolation of great crested newt populations can be caused when **development imposes barriers to newt dispersal**. These barriers can include built land, fast flowing water bodies or extreme landforms. Isolation of great crested newts can result in population number declines and a decrease in genetic viability. Therefore the mitigation strategy should include measures to **maintain habitat linkages and preferably reconnect fragmented areas**.

In addition, the built environment can present significant barriers to newts through inappropriate design. As such, features such as newt 'friendly' gullies and the use of low level kerbstones at key points where newts may cross quiet roads should be provided as part of the mitigation strategy. Compensation should ensure that once completed, there will be no net loss of breeding or resting sites. In fact where significant impacts are predicted there will be an expectation that compensation will provide an enhanced habitat (in terms of quality or area) compared with that to be lost. Compensation should also remedy any loss of connectivity brought about through the development.

Question 7: Can you confirm that SLDC has incorporated all of Natural England's Great Crested Newt impact avoidance and mitigation requirements in the proposals for R121M?

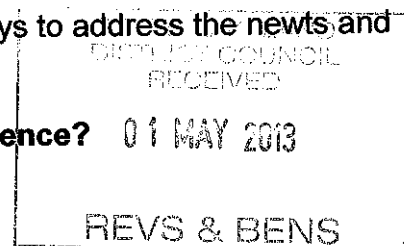
Question 8: Is SLDC prepared to guarantee that there will be no development of any kind within 500 metres of the existing great crested newt colony?

At the Hearing, Mr. Hudson stated: "we are applying for the mitigating ways to address the newts and bats within our policy".

Question 9: What are these "mitigating ways" and where is the evidence?

Flooding and surface water run-off

In the National Planning Policy Framework Document Point 100 states:



Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

Flooding/Drainage costs need costing in

On the question of Flooding, Mr. Hudson stated: "We consulted extensively with both the Environment Agency and with our own land drainage team".

Question 10: Where is the evidence and documentation?

Question 11: What research have they carried out regarding flooding, climate change and the effect of this on future flooding?

The R121M flood status is completely inaccurate and assessment of the Stock Beck Flood Scheme impact has apparently not been included as part of the flood assessment. I have been informed that the pipes that were installed at Stock Beck are not wide enough to hold the water. It would appear to be essential that, before this site can be approved on flooding grounds, SLDC should review and adopt the recommendations contained in the Preliminary Expert Report written by Professor Robert Jackson, CEng CWEM, one of the leading specialists in hydrology in the UK. Professor Jackson in his report **warned the Council on the consequences of building on this sensitive site which has a complex hydro/geology.**

Question 12: Was a formal Flood Risk Assessment requested by SLDC with the planning application for the proposed development?

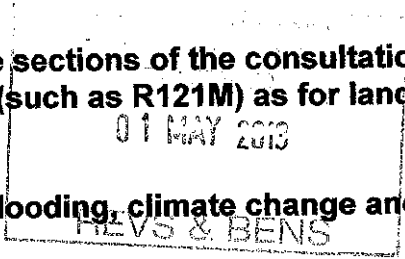
SLDC appears to be using the Environment Agency's ('EA') Flood Map as a reference, but Professor Jackson in his Report states that the EA uses only low resolution flood mapping to create indicative flood maps to provide cautious estimates of flood risk. He also states that, on a more local scale, this mapping may not be accurate. For example, some water courses due to their size are sometimes not shown on the EA flood map and consequently are not shown on the EA "indicative flood maps". We would suggest that these limitations are highly relevant in respect of SLDC's evaluation of R121, with the EA's maps understating the flood risk on this site and adjacent areas.

In his Report, Professor Jackson states:

The proposed development site to the south of Sedbergh Road comprising fields R121, R141 and R56 contains numerous land drainage ditches together with springs and seepages, and ponds. Springs and seepages occur whenever water-bearing conduits intersect the ground surface and these features serve to confirm that the area has a complex hydrogeology.

Question 13: Could I please be provided with confirmation and supporting documentation relating to the consultation that has taken place with the Environment Agency and SLDC's own land drainage team?

Question 14: Why does the flooding status within the evidence sections of the consultation documentation show the same status for land known to flood (such as R121M) as for land that doesn't? This is clearly incorrect.



Question 15: What research has SLDC carried out regarding flooding, climate change and the effect of this on future flooding?

Question 16: Has SLDC considered the recommendations in Professor Jackson's Report? Could you please explain the reasons for his recommendations not having been factored into the land allocation process?

Question 17: Was a formal Flood Risk Assessment requested by SLDC as part of the evaluation process for the proposed development of R121M?

Question 18: What does SLDC propose to do about the surface water and flooding problems on and adjacent to R121M if the proposed development goes ahead?

Traffic Congestion on the A684

In the 16 years since the Inspector's Report in 1997, traffic on the A684 Castle Green Lane has become increasingly busy, especially at peak periods, and is used as a 'rat-run' to avoid the town's congested one-way system. The emergency services also often use this route. Whilst 'calming' procedures could be put in place, these will also have an impact on the landscape character and visual amenity of the area.

It was also pointed out to you at the recent Hearing that severe flooding on the A684 had recently caused a traffic jam for one to two hours. I heard your request to lodge this as evidence for your forthcoming report. It is the opinion of many local residents that the additional traffic generated by development of R121M will be a step too far and that, with some ninety more cars accessing onto the A684, this will further exacerbate an already intolerable traffic problem on a busy, congested road.

Question 19: Are you fully aware of these traffic problems?

Question 20: What traffic surveys have been carried out on Castle Green Road subsequent to the opening of the K Village development?

Question 21: Why has a Highways Design Brief not been carried out for site R121M?

Question 22: Why was there no inclusion of the Highway Officer's comments relating to R121M at the Hearing?

Question 23: What analysis has been done to prove that additional run-off will not compromise the effectiveness of the Stock Beck Flood Alleviation Scheme?

Affordable housing

At the first Public Meeting Mr. Hudson addressed, he stated that 35% of the development would be for affordable housing. I believe the reason that he said this was to win support from the local residents. The basis for this development was affordable housing. At the Hearing, Mr. Hudson made no mention of affordable housing at all.

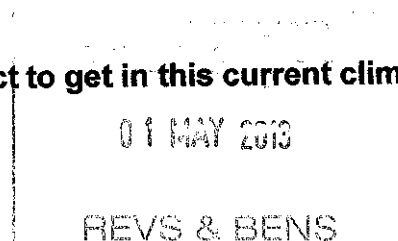
Question 24: How many affordable houses will be built, if any at all?

If landowners are requesting £900,000 per hectare for the land or £400,000 per hectare (which has been mentioned), then developers are not going to build affordable housing, as this would be unviable.

Question 25: What would be the financial incentive figure landowners would accept for sale of the land?

Question 26: What sales values would developers expect to get in this current climate of recession?

We must bear in mind this point in the Harman Report:



Forecasting things like house prices or costs is notoriously difficult over the shorter term and subject to wider inaccuracies over the medium and longer term. The best a council can realistically seek to do is to make some very cautious and transparent assumption with sensitivity testing of the robustness of those assumptions. In so doing, it is important that variations against baseline costs, as well as values, are tested and based, where appropriate, on construction cost and other indices.

Infrastructure

The 2011 Fact Find stated that 'National Grid states the site is unfeasible and major infrastructure/service investment is needed to the gas network'. The more recent Fact Find omits this statement.

Question 27: If the site is unfeasible from National Grid's perspective, then why is site R121M still being put forward for residential development?

Question 28: If SLDC is in possession of subsequent information from National Grid which now states that the site is feasible, could I please be provided with a copy of this communication from National Grid?

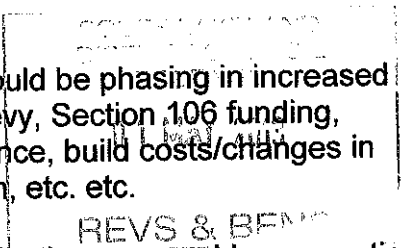
The recent exercise to establish Financial Viability of each Site

This exercise was designed to use Harman's guidelines to test the financial viability of each site individually and for the plan as a whole. At the meeting on 22nd February 2013 the consultants made much of the fact that they were following Harman's guidelines and were using the standard site viability test, which looks at the development costs and the projected income and deduces the maximum price which can be paid to purchase the land. I believe that this meeting broke up in disarray because the financial expectations of the landowners meant that barely any of the sites were financially viable. It now appears that this has been addressed in the consultants' final report by simply reducing the projected sale price per hectare from £1m to a 10% uplift plus £400k. This is not in line with Harman's guidelines and, given that it was made very clear at the meeting that such a land valuation would not be acceptable to local landowners, it looks like an expedient but disingenuous way of dealing with the major problems relating to demonstration of the plan's financial viability.

Question 29: Have you been made aware of the outcome of the meeting held on 22nd February 2013, namely that the plan as a whole is not viable if Harman's guidelines are used?

I believe that such a sensitive site should not have been a desktop exercise. The first time someone from SLDC actually came to look at the site, is when we invited him to walk around it with us! An outline highways design brief should be required before it could possibly be put forward for serious consideration. It is astounding that Cumbria County Council Highways Department still considers it acceptable to access the above site via R56 and R141, bearing in mind the high level of landscape sensitivity (R141 in particular), the high level of biodiversity and the extensive flood alleviation measures required for R56 (ref. Matter 1.6).

SLDC are working on everything with today's data, whereas they should be phasing in increased costs. None of the costing includes the Community Infrastructure Levy, Section 106 funding, construction costs plus 6%, cost and availability of development finance, build costs/changes in house prices, infrastructure costs, abnormal costs e.g. contamination, etc. etc.



I would please request that you advise SLDC to drop this allocation for the reasons I have mentioned above. It would be nothing less than criminal to allow developers to build on this historical landscape, because once it is done it is lost forever. Four hundred people have spoken, please

listen to their concerns.

Yours sincerely,



30.4.13

Mr. Michael Fennell

~~PS. Up to this date I still have not had a reply to my letter with accompanying questions from Damian Law, even though he promised he would answer those questions.~~

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01 MAY 2013
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