

## Appeal Decision

Hearing held on 3 September 2015

Site visit made on 3 September 2015

**by David Spencer BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 2 October 2015**

**Appeal Ref: APP/A2335/W/15/3033373**

**Land off Aldcliffe Hall Lane, Aldcliffe, Lancaster LA1 5BQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Mustaq Mister against the decision of Lancaster City Council.
- The application Ref 14/00626/OUT, dated 5 June 2014, was refused by notice dated 12 November 2014.
- The development proposed is outline planning application for erection of up to 12 No. two storey dwellings (including access) with all other matters reserved.

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was submitted in outline with all matters reserved except for highway access. Nevertheless it was accompanied by supporting information including, amongst other things, a transport statement including survey work, a Landscape and Visual Appraisal, a Habitat Regulations Assessment, a flood risk assessment, arboricultural reports and an extended phase 1 habitat survey.
3. The accompanied site visit took place after the hearing on 3 September. I informed the hearing that I had made an unaccompanied site visit on 2 September to the appeal location, including the nearby National Cycle Route, the public footpath to the south and east of the appeal site and the settlements of Stodday and Heaton in the Lune Estuary. Parties at the hearing confirmed that they were satisfied that I had visited these locations on an unaccompanied basis.
4. At the hearing the appellant submitted a planning obligation under the provisions of Section 106 of the Town and Country Planning Act 1990 in the form of a Unilateral Undertaking (UU). I am satisfied that the Local Planning Authority has had an input into the content of the UU, particularly the provisions relating to affordable housing. However, various ancillary parts of the UU were not provided at the hearing. Consequently, and at my request, the appellant provided a complete version of the UU after the hearing closed. The proposed contributions in the complete UU would need to be assessed against the statutory tests set out in the Community Infrastructure Levy (CIL) Regulations 2010.

## Background and Main Issues

5. The Council as part of its appeal submissions, in light of further representations from Natural England informed by the Habitat Regulations Assessment submitted by the appellant with the appeal, no longer sought to pursue its reason for refusal relating to a precautionary approach on uncertain impacts for protected European habitats. I have considered the comments of Natural England<sup>1</sup>, who are the government's statutory adviser for the natural environment in England, and given they no longer object to the proposal I do not consider the matter to be a main issue for this appeal. However, biodiversity at the site has been raised by a number of third parties and I will deal with this in the decision.
6. It has also been put to me that the wider sustainability of Aldcliffe for the scale of development proposed is a main issue for this appeal. This is a debatable point and one which is presently intertwined with the supply of deliverable housing land in the District. I have written evidence before me on these matters and a notable part of the hearing was taken up discussing the location of Aldcliffe, the planning policy position and current housing land supply. I therefore consider that no party would be prejudiced were I to consider sustainability of location as a main issue including the appeal location in terms of planning policy and housing land supply.
7. The main issues in this appeal are therefore:
  - Whether the proposal would be in a sustainable location;
  - The effect of the proposed access arrangement on the safety of vehicular and other highway users on Aldcliffe Hall Lane; and
  - The effect of the proposed development on the character and appearance of Aldcliffe Hall Lane and the surrounding area, having particular regard to the location of the appeal site within the low coastal Drumlins landscape character type.

## Reasons

### *Policy Context, housing land supply and sustainable location*

8. The development plan for the area comprises of those policies of the Lancaster District Local Development Framework Core Strategy 2008 (the CS) and the more recently adopted Development Management Development Plan Document 2014 (the DMDPD). It also includes those saved policies from the Lancaster District Plan 1996-2016 which was adopted in 2004 and reviewed in 2008. The overarching spatial strategy and growth levels for the District are set out in the CS which adopts an urban concentration strategy to deliver growth of 400 net new dwellings per annum which is based on the former Regional Spatial Strategy (RSS) requirement.
9. The Council is working towards a new Local Plan for Lancaster District 2011-2031 of which the DMDPD will be part of a suite of planning documents. It will be accompanied by a Land Allocations DPD which will translate revised housing requirements into a strategy of sites to meet future development needs in the District. Whilst there is no draft version of a Site Allocations document before

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<sup>1</sup> Letter from Natural England dated 6 August 2015

me, I was advised that the DPD will be submitted for examination in 2016 and that presently five strategic options were being explored as part of the consultation process. These options respond to ongoing work by Turley Associates on the objectively assessed housing need (OAHN) for the District. I was informed that initial housing requirement outputs from this work represented an appreciable upwards step-change for housing delivery in the District based on the latest household projections and updated work on employment land modelling.

10. I understand that these figures are being questioned at a local level in the District as part of the Local Plan process. However, I have very little evidence to confirm that OAHN going forward will remain at the RSS levels given the various requirements at paragraph 47 of the National Planning Policy Framework (NPPF) to significantly boost the supply of housing. Additionally, past performance also points to a need to increase the supply of deliverable housing land in the District given that the annual 400 dwelling target has only been delivered once in the past five years. Consequently, local housing need within the wider strategic housing market area is not being met. Factoring in the backlog arising from under-performance and applying the Sedgfield methodology with a generous 5% buffer still results in a yearly target of 744 dwellings to be delivered over the next 5 years to help towards a balanced housing market. Against this requirement the Council acknowledges it only has a 3.3 year supply of deliverable housing land<sup>2</sup>.
11. In my view, this is a serious and significant shortfall. The Council submits that the shortfall is primarily accountable for by recessionary factors and that recent performance has improved, notably in 2014/15. It was also put to me that small sites, such as the appeal site would do little to remedy the scale of the shortfall. However, the Site Allocations DPD remains some two years from adoption and as such there cannot be a moratorium in the interim on releasing deliverable<sup>3</sup> housing land, however small the scale, given the extent of the shortfall. Accordingly, paragraph 49 of the NPPF applies in that housing applications should be considered in the context of the presumption in favour of sustainable development<sup>4</sup> and that relevant policies for the supply of housing should not be considered up-to-date.
12. Aldcliffe is a small rural settlement with no services or facilities and no bus service, as a consequence occupants of the appeal proposal would be reliant on the use of the car and the proposal would not maintain or enhance the vitality of the local community. It was therefore put to me that limited sustainability credentials of location would mean the appeal proposal would be contrary to DMDPD Policy DM42. The appellant avers that Policy DM42 titled 'Managing Rural Housing Growth' is relevant to the supply of housing and has referred to case law<sup>5</sup> that it should be considered out-of-date in light of the housing land supply.
13. From the evidence before me I am not persuaded that Policy DM42 has been applied by the Council as an in-principle barrier to further housing growth of the scale proposed. The Council's assessment of the appeal proposal carefully

<sup>2</sup> Doc 6, paragraph 3.18

<sup>3</sup> As per the definition at footnote 11 to Paragraph 47 of NPPF

<sup>4</sup> Defined at paragraph 14 of the NPPF, and in particular for decision-making the second bullet, that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.

<sup>5</sup> Doc 2

considers Aldcliffe in relation to Policy DM42 but recognises that the proximity to the built up area of Lancaster is a notable factor. As a consequence the Council's determination of the appeal proposal states. "....the site cannot be considered to wholly geographically unsustainable."<sup>6</sup> The report goes on to say. "There are deficiencies in terms of the sustainability of location, however, it is not considered that the principle of development within Aldcliffe can be ruled out particularly given the lack of a five year land supply."<sup>7</sup> The same approach is reflected in the Council's approval, at the same Committee meeting that the appeal proposal was considered, for 6 dwellings on land off Aldcliffe Hall Drive, another greenfield site on the edge of the settlement<sup>8</sup>.

14. Whilst there may be a lack of facilities in Aldcliffe on which additional housing could rely on, the settlement is only a short distance from the built-up edge Lancaster and facilities within this city. Whilst most of these facilities are beyond a reasonable walking distance, they are nonetheless within a sensible cycling distance and only a very short journey by car. I was informed at the hearing that Aldcliffe Hall Drive was not in its entirety a public right of way and as such not a through route to Aldcliffe Road. I have little evidence to dispute this and the alternative would be to walk or cycle along Aldcliffe Road the relatively short distance to the canal tow path which provides a good off-road route into the city and its facilities. This short section of Aldcliffe Road has no footways but it is within a 30mph speed limit. Whilst I accept that it may not form a desirable pedestrian connection, I am not persuaded that the short on-road section would deter some residents from walking and I have little evidence as to why it would not form part of a safe, direct and convenient cycle route into the city. As such I share the Council's assessment that Aldcliffe is not wholly geographically unsustainable due to its proximity to Lancaster.
15. In terms of the development plan, the appeal proposal is in countryside, at the edge of a rural settlement. Policy DM42 identifies a number of sustainable rural settlements where new housing will be supported, which does not include Aldcliffe, as well as criteria setting out general requirements for rural housing. I understand that the DMDPD was examined to be found sound in the context of the NPPF and the five-year land supply position. The Council also submits that Policy DM42 is not setting out housing supply figures which is represented by the 10% allowance in CS Policy SC3 and as such this DM policy only updates the development management aspect of this CS policy.
16. However, Policy DM42 identifies specific settlements and as such it potentially affects the location and distribution of housing development. It is located in a section of the DMDPD titled 'Sustainable Housing Growth'. Consequently, in light of the five year housing land supply, I do not find the approach, specifically to 'sustainable rural settlements', in Policy DM42 to be up-to-date in the context of paragraph 49 of the NPPF in that it should act as an in-principle constraint on further housing growth in other rural settlements.
17. I therefore conclude that the Council's assessment of the principle of development at the appeal location has been the correct one with regard to the broad location relative to Lancaster and the lack of a five year supply of deliverable housing land. Accordingly, this means that the proposal should be considered within the provisions of paragraph 49 and 14 of the NPPF and as

<sup>6</sup> Paragraph 7.2.5, Report to Planning and Highways Regulatory Committee 10 November 2014

<sup>7</sup> Paragraph 7.2.7, Report to Planning and Highways Regulatory Committee 10 November 2014

<sup>8</sup> Docs 12, 13 & 14

such planning permission should be granted unless, when applying the planning balance, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

### *Highway Safety*

18. The appeal proposal is in outline for up to 12 dwellings and whilst it may follow that a detailed scheme could be for fewer dwellings I have nonetheless considered the proposal on the basis of the maximum 12 dwellings for highway safety purposes. Access is not reserved and a single point of vehicular access is shown onto Aldcliffe Hall Lane at a point approximately opposite the entrance to Oaklands Court, a small residential estate. Aldcliffe Hall Lane is a no through route for vehicles and varies in width. For the significant majority of its length it is predominantly narrower than 4.1metres<sup>9</sup> which is a recognised width to enable two way car traffic or for a larger vehicle to pass a cyclist.
19. I have before me highway survey work outputs from the appellant recorded between 3 and 9 October 2014 and a traffic survey undertaken by the Local Highway Authority (LHA) in July 2015 which has been assessed and presented by Sanderson Associates on behalf of a third party. From what I heard at the hearing, both of these surveys were undertaken at points on Aldcliffe Hall Lane between the proposed appeal site entrance and the turn into Aldcliffe Hall Drive. Whilst I appreciate some caution may need to be applied in respect of whether some of the survey work was carried out in school holidays, both surveys confirm what I observed on site in that Aldcliffe Hall Lane can reasonably be described as a lightly trafficked route.
20. Looking at the evidence I note that the pattern of vehicle flows broadly follows what Mr Price described in evidence as "tidal", in that there are distinct AM peak and PM peak movements, generally consistent with a commuter pattern, with relatively low levels at other times of the day. Average vehicle flows (combined two flow directions) from the data available point to a maximum of 1 vehicle every 2 minutes. These low volumes are perhaps not surprising given that Aldcliffe Hall Lane at the point of access to the appeal site principally serves the small residential estates at Oaklands Court and Craiglands Court and a small informal car park where the road terminates.
21. In terms of potential vehicular conflict, parties have applied the well-established TRICS methodology and estimated that 12 dwellings at the appeal location would generate 7 two-way vehicle movements per hour in the AM and PM peaks respectively. Taking the worst case scenario, based on available survey work this would represent an increase of some 25% on existing flows. However, it needs to be borne in mind that the appeal proposal would represent only a moderate numerical increase on the base position and as such perspective needs to be applied to the percentage increase. Accordingly, I am satisfied that vehicle movements associated with the appeal site would be small in number and the risk of conflict with additional traffic would be very slight given there are not significant volumes of two-way traffic either at the appeal site entrance or elsewhere on Aldcliffe Hall Lane.
22. In terms of the access point I note that the LHA does not object to the proposed vehicular visibility splays<sup>10</sup>. My attention has been drawn to

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<sup>9</sup> Paragraph 3.1.4 and Appendix D (page 79 of Manual for Streets) – Sanderson Associates report

<sup>10</sup> As shown on Drawing No. BB076-400\_C

paragraph 7.5.9 of Manual for Streets (MfS)<sup>11</sup> given the notable downhill gradient for the traffic direction from the east, including cyclists. Given these conditions it is submitted that stopping distances necessitate a 38 metre splay in this direction. I noted that Aldcliffe Hall Lane is 30mph and speed survey data from both the appellant and Sandersons Associates shows traffic speeds at the 85<sup>th</sup> percentile appreciably below 30mph<sup>12</sup>. I am not persuaded that the appellant has significantly underestimated traffic speed on Aldcliffe Hall Lane in determining the visibility splay requirement. I am also persuaded by Mr Price's submission, contrary to that presented in the Sanderson Associates report that the restricted width, the occasional bends and overall rural ambience would result in more cautious driver behaviour. This was disputed by local residents, however I was only pointed to occasional paint scrape marks on the corner of the stone wall opposite Ivy Cottage and faint tyre skid marks at the entrance to Oaklands Court. This is not persuasive evidence of regular incidences of excessive speed resulting in dangerous highway conditions.

23. Notwithstanding the gradient on Aldcliffe Hall Lane, vehicle speeds are typically below the speed limit and there is a reasonably straight alignment to the highway beyond the proposed visibility splay. Visibility is then extended to the west by the downhill traffic direction being on the outside of the curve in the highway. This visibility, in my opinion, would also safeguard against conflict with fast moving cyclists on the downhill descent. As such, although the visibility splay would be below the MfS guidance the degree of risk is significantly reduced by the alignment of the highway and cautious traffic behaviour in response to width of the highway.
24. In also considering the adequacy of the proposed visibility splays and degree of conflict on Aldcliffe Hall Lane between additional traffic generated by the appeal proposal and existing users of the lane I have looked to the available accident data<sup>13</sup>. I noted the submissions from local residents that approaches to the LHA and police for accident data have yielded contradictory responses on where data may be held. Local residents refer to minor collisions and vehicles being written-off but I have very little evidence on the date, scale, location or circumstances around these incidents. I do, however have 1 personal injury record and whilst it is recorded as a serious injury I noted that it occurred at 4am and involved only 1 vehicle (motorcycle). Accordingly, I am not persuaded that highway conditions in the vicinity of the appeal site are unsafe and I attach weight to the fact that the LHA has not objected on this basis and that they appear to be content with the proposed vehicular visibility splays.
25. Objectors also asserted that agricultural contractors with large vehicles use the lane, with little care or attention. However, I have very limited evidence, including from the traffic surveys, that these are regular users of the lane and their presence would particularly coincide with the AM or PM peak periods when vehicle flows would be greater. In my view users of the rural lane would be aware of the likelihood of larger and more visible agricultural vehicles and would drive accordingly. As a result I do not consider this conflict to be severe in highway safety terms.

<sup>11</sup> Appendix D, Sanderson Associates report (p91 Manual for Streets)

<sup>12</sup> The appellant submits eastbound speeds of 22mph and westbound speeds of 25mph; Sanderson Associates report submits eastbound speeds of 25mph and westbound speeds of 26mph (All speed measurements at 85<sup>th</sup> percentile)

<sup>13</sup> Presented at Appendix G, Sanderson Associates report

26. The LHA wishes to secure a footway along the eastern visibility splay. This would extend a further 2 metres beyond the proposed vehicular splay and would require land outside of the appellant's control. Aldcliffe Hall Lane does not benefit from footways although there are sporadic street lights. There are occasional driveways where pedestrians can step aside. The appellant has also submitted that an alternative pedestrian access could be secured from the appeal site to the public footpath to the east which emerges on Aldcliffe Hall Lane close to the entrance to Aldcliffe Hall Drive. In my view this would provide an appropriate alternative route which would reduce potential conflict. However, given the highway conditions on Aldcliffe Hall Lane, including the speed limit and a notable lack of accidents, I am not persuaded that the absence of a footway along the eastern visibility splay or the presence of a small number of additional pedestrians in the highway would be severely harmful to highway safety on this rural lane.
27. I therefore conclude that the effect of the proposed access arrangement on the safety of vehicular and other highway users on Aldcliffe Hall Lane would not be severely detrimental. Whilst the visibility of the junction in the east direction is below the standards in MfS1 taking account of the gradient it is no so substandard allowing for local highway conditions that appeal proposal should be prevented on transport grounds. The residual cumulative effects are not severe and as such the proposal would not offend paragraph 32 of the NPPF.

#### *Character and Appearance*

28. Turning first to the character of Aldcliffe Hall Lane, this road starts on higher land within the settlement of Aldcliffe, however, as it descends west towards the Lune Estuary development continues on the northern side and the southern side of the lane has a distinctly rural character due to the presence of protected trees and undulating pasture land beyond. Tall verdant hedging, occasional trees and established and muted stone walling along the appeal site boundary to Aldcliffe Hall Lane positively contribute to the rural appearance which blends into the adjoining pastoral landscape.
29. Aldcliffe Lane at the appeal site sits appreciably below the land level of the appeal site such that any new access arrangement including visibility splays would have to significantly cut into the land to secure both the gradient of access and also the necessary visibility splays. Whilst this would not affect the protected trees to the east and west of the proposed access it would nonetheless remove a significant length of hedge and established stone walling across an approximate 60 metre frontage. The appellant submits that replacement stone wall and hedging<sup>14</sup> would be provided. However the initial impact would be a striking denudation of the verdant qualities on this rural part of Aldcliffe Hall Lane, irrespective of the age or species mix of the hedge lost.
30. Whilst the proposed replacement perimeter hedging and new stone walling would partially offset the harm, it would take time to become established leaving a notable interim period when the full extent of the harmful loss of the existing rural boundary would be experienced. In any event, the proposed planting would not disguise or compensate the scarring effect that would result from the appreciable gouging into the established bank to form a replacement retaining arrangement for the higher land levels of the appeal site. Because the retaining walls and hedging would be set back behind visibility splays and

<sup>14</sup> Indicated on Landscape Mitigation Plan, Figure 4, LVA and Drawing No. BB076-400\_C

footways, the result would be a particularly urban, highways dominated threshold to the proposed development. This would conspicuously contrast with the established rural character along the southern edge of the lane.

31. Whilst I noted the entrances to Craiglands Court and Oaklands Court have a suburban character they are relatively modest in scale and appearance. In any event these developments were approved some time ago and whilst they would have undoubtedly altered the appearance of Aldcliffe Hall Lane, the effect is confined to short lengths of the northern side of the lane such that they are not dominant in the street scene. The appellant also submitted that parts of the retaining boundary wall were in poor repair and needed addressing. However, I do not see this as justification for the extensive remodelling of the present rural site boundary at the position of the proposed site access. I therefore find the location and scale of the proposed site access would harmfully erode the rural character and appearance in this part of Aldcliffe.
32. The appeal location is within the Low Coastal Drumlins landscape character area. This landscape area is defined by its relationship to coastal waters such as the nearby Lune Estuary and the distinctive undulating drumlins which are low whale-back hills surrounded by flat lowlands and shallow river valleys. The baseline description for the landscape character area states, amongst other things, that it encompasses areas of high tranquillity particularly around the Lune Estuary<sup>15</sup>.
33. The Council made reference to valued landscapes in the context of paragraph 109 of the NPPF but there are no specific landscape designations at Aldcliffe and as such the value is primarily a local one. However, the NPPF states at paragraph 17 that it is a principle of the planning system to take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside. This is reflected in DMDPD Policy DM28 which seeks to protect locally important landscapes, with specific reference to the Lune Estuary, by supporting developments which are in scale and keeping with the landscape character.
34. The current settlement at Aldcliffe is largely nestled within a fold in the topography such that more recent development at Craiglands Court and Oaklands Court are largely enveloped by landform and vegetation such that they are not prominent in the landscape. More established settlement around Bank Farm and more recent housing along Aldcliffe Hall Drive is on higher land close to the summit of the landform which rises at Aldcliffe. Whilst it was not confirmed at the hearing, the 33-35 metre AOD summit of the landform at Aldcliffe would be consistent with other drumlins in this part of the Lune Estuary. However, these higher dwellings are largely seen filtered through the mature wooded landscape, some of which is shown on historical maps<sup>16</sup> around the former Aldcliffe Hall.
35. This arboreal envelope for existing settlement at Aldcliffe includes the protected trees to the north and east of the appeal site and the tall verdant hedge along the southern boundary to Aldcliffe Hall Lane. The appeal site occupies rising pasture land outside of this wooded setting. It is conspicuously open to the south and west as a consequence of the absence of any established southern boundary to the appeal site, the sporadic hedge and fence boundary to the

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<sup>15</sup> Paragraph 1.4.1, p4, LVA

<sup>16</sup> Doc 9



west from the electricity sub-station to the public footpath and the pronounced, sharply rising topography on the site, which includes an exposed slope rising in a relatively short distance from 11 metres AOD to a plateau at approximately the 22 metres AOD level.

36. The appellant has submitted a Landscape and Visual Appraisal (LVA) including a visual analysis plan<sup>17</sup>. There has been some criticism from local residents about the methodology of the appellant's LVA but I find the overall approach and study area to be appropriate. In a number of areas I share the findings of the LVA based on my own observations. A number of the nearby drumlins provide a screening landform such that the appeal site is largely not visible from the north, from the south at Stodday and from the east. I also accept that due to hedgerows and landform it would not be noticeable from Aldcliffe Road including to the south of the dwelling known as 'Croagh Patrick'.
37. However, the landform of the site, which is on the mid-slopes of the hill at Aldcliffe, faces west towards the Lune Estuary. The rising pasture land of the appeal site is clearly visible in views from Aldcliffe Hall Lane facing east from the informal car park along to West Lodge, which is a designated link to the National Cycle Route<sup>18</sup>. The site is also evidently visible from the former railway line which now forms part of the River Lune Millennium Park Multi-use Path (which forms part of National Cycle Route 6), the elevated public footpath along the embankment to the River Lune (FP31) and from gateway entrances in the public footpath (FP 50) to the south and east of the site. It is also clearly discernible in longer range views from the public highway in Heaton on the Heysham peninsula.
38. Given the degree of the visibility of the appeal site in the Low Coastal Drumlins landscape its development would conspicuously introduce a new built edge in contrast to the extensively filtered treed edge to Aldcliffe from these perspectives. The proposed dwellings would also be elevated above the existing housing at Oaklands Court and Craiglands Court. As such the stark appearance of settlement on the mid slopes of what is a drumlin type landform would not be characteristic of these landscape features which tend to be open pasture land topped by small groups of trees or solitary established buildings. I therefore cannot share the appellant's submission, even allowing for reduced foliage on trees in winter, that the appeal proposal would be read as part of the existing settlement in Aldcliffe and would not change key landscape characteristics. It therefore follows that the effect on this locally important coastal landscape character would be significantly greater than the moderate/minor adverse impact that the appellant suggests.
39. The appellant submits that the degree of visibility from the National Cycle Route 6 would be only partial due to the varying density of vegetation along the eastern boundary of this former railway. This route is in places slightly elevated above the land to the east before it starts to slope up to towards the appeal site. In combination with some appreciable gaps and lower sections in the vegetation the appeal site is in places clearly visible to users of this route. Moreover, because there is thick vegetation on the estuary side of this path, the field of view of users of this route is predominantly towards the inland drumlins landscape including the appeal site. From my observations of being on this path, which I appreciate can only provide a snapshot, it appears to be a

<sup>17</sup> Figure 2, Appellant's LVA

<sup>18</sup> Doc 8

well-used by both cyclists and walkers. As such the appeal proposal would harm the experience and appreciation of this tranquil rural landscape from this public perspective and other public vantage points in the wider Lune Estuary environment including the local footpaths referred to above, Aldcliffe Hall Lane and Heaton. In my opinion, this harm would be appreciably greater than the moderate or less effect identified in the appellant's LVA.

40. I have also considered the appeal proposal's degree of compliance with the management strategy for the Low Coastal Drumlins landscape. Whilst it would not represent ribbon development that would result in amalgamation with an adjacent settlement it nonetheless remains that the appeal site would not represent an appropriate opportunity to conserve the pattern of rural settlement as the landscape strategy seeks. The boundary to settlement at Aldcliffe at the appeal location is well-defined by the established vegetation such that the appeal site does not represent a sympathetic infill site or 'rounding-off' of the settlement. Nor does it present a situation where planting would help to delineate the boundary of the settlement. Consequently, I am not persuaded that the appeal proposal would accord with the landscape strategy for this area.
41. The appeal site is a sizeable area for up to 12 dwellings and as such it would provide scope for appreciable levels of landscaping both on individual plots and more strategically at the southern edge to the site. The appellant has submitted an indicative landscape mitigation plan<sup>19</sup> which shows that a 10 metre wide woodland buffer could be created along the southern boundary to the site and reinforcement planting around the electricity sub-station and site entrance. I accept that landscaping could be secured by condition, but at present there is negligible landscaping to the southern and western aspects of the site for additional landscaping to augment. Mr Halliday in evidence suggested a time frame of up to 10 years for woodland planting to have a meaningful mitigation effect. This is an appreciable period during which the visual impact of the appeal proposal would be widely experienced. Furthermore, because of the marked change in land levels across the site I am cautious to accept that landscaping on the lower parts of the site would adequately mitigate the visual impact. I also find merit in the Council's submission that the proposed arbitrary sub-division of this field with a woodlad belt would erode the strong field pattern identified as a key feature of the local landscape character.
42. I recognise matters such as layout are not for determination at this stage but a sizeable majority of the site is on rising land and the higher plateau of the site. Only a very small proportion is on the lower slopes close to the electricity sub-station and consequently, in my view, any efficient use of the appeal site for up to 12 dwellings would inevitably require development on the upper contours of the site. As such landform at the appeal site offers little in the way of mitigation. From the higher parts of the site it is evident that new residential development would be conspicuously elevated above the levels of Aldcliffe Hall Lane and residential development to the north. Therefore because of the significant changes in land level and the length of time it would take for any woodland buffer to become established at this exposed location I consider that the visual harm and wider landscape harm arising from a two storey residential development at the appeal site could not be adequately mitigated within an

<sup>19</sup> Figure 4, Appellant's LVA

acceptable time period and would be greater than the generally moderate effects identified by the appellant.

43. The appeal proposal would also be noticeable from Aldcliffe Hall Lane and in the outlook from certain properties, notably West Lodge. Whilst I recognise the submission that no one has the right to a view, the visual effects of the appeal proposal for some of the properties would lead to a major/moderate effect as the appellant's LVA identifies. This visual effect may be capable of mitigation but much would depend on layout, detailed design of the dwellings and additional landscaping along Aldcliffe Hall Lane. Those are matters that could be secured by condition but as the LVA acknowledges the impact on these properties would only reduce to moderate in the medium to long term. Consequently, there would be an appreciable period when the visual impact of the appeal proposal for these dwellings would be distinctly harmful.
44. On the site visit my attention was drawn to the inter-visibility to Abraham Heights, a residential estate to the west of Lancaster city centre. This is over some distance and I am not persuaded that this limited visual connection, which cannot be widely appreciated from public vantage points, should set the pattern for development in this landscape area.
45. I was also referred to a solar farm development recently approved in the Low Coastal Drumlins landscape, a short distance to the south at Arna Wood. I have relatively few details on the size of the solar panels and the height of the framework to which they would be attached and it was confirmed to me that the proposal has yet to be implemented. However, I note from the submitted plans that whilst the site is adjacent to National Cycle Route 6 in contrast to the appeal proposal it is on lower lying land that avoids the mid and higher slopes of the drumlin at Arna Wood. I also note from the decision notice<sup>20</sup> that the proposal has a 25 year lifespan and I have little evidence that the site could not be returned to farmland after this period. As such I see little comparison with the appeal proposal. The landscape strategy for the low coastal drumlins area does not preclude development and clearly each proposal needs to be considered on its own merits and on the individual context of its location within that landscape area.
46. In the context of the particular circumstances at the appeal location, I conclude that the appeal proposal would result in significant and demonstrable harm to the character and appearance of Aldcliffe Hall Lane and the surrounding area, having particular regard to the location of the appeal site within the low coastal Drumlins landscape character type. The proposal would therefore be contrary to Core Strategy Policies SC1, SC5 and E1 which, amongst other things, require proposals to be appropriate to the character of the landscape, to preserve and enhance features of significant landscape importance and enhance the positive characteristics of the surroundings, including quality of the landscape and public realm. It would be contrary DMDPD Policies DM28, DM35 and DM41 which require, amongst other things, development in locally important landscapes, including the Lune Estuary, to be in scale and keeping with the landscape character, and for new developments to contribute positively to identify and character. It would also be contrary to saved Policy E4 of the Lancaster District Local Plan<sup>21</sup> which requires development to be in keeping with the character and natural beauty of the landscape and appropriate to its

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<sup>20</sup> Doc 1

<sup>21</sup> Strike-Through Edition, September 2008

surroundings in terms of siting. It would also fail to accord with the objectives of the NPPF at paragraph 17 to recognise the intrinsic character and beauty of the countryside and to secure high quality design. In respect of design, this is the broader concept, as espoused at paragraph 64 of the NPPF that development should take opportunities to improve the character and quality of an area and the way it functions.

### *Other Matters*

47. The appeal site is a short distance to the east from the Morecambe Bay Special Protection Area (SPA) and Special Area of Conservation (SAC) both of which encompass wider estuarine environments including the Lune Estuary and come under the umbrella of Natura 2000 sites. Morecambe Bay is also RAMSAR designation. It is therefore incumbent on decision makers under the Habitat Regulations<sup>22</sup> to consider whether there would be any likely significant effects on the integrity of Natura 2000 sites. Concerns at the application stage have largely focussed on the SPA. The appellant has undertaken a Habitat Regulations Assessment (HRA) which states that the SPA is of European importance for migratory birds, notably species of geese, duck, terns and other wading birds. The HRA utilises independent bird observation records from a variety of local and national ornithological bodies and I have little reason to doubt the veracity of this evidence. Similarly, Natural England having considered the HRA and the evidence within it has agreed with its conclusion that the proposal would not have a likely significant effect on the Morecambe Bay SPA, SAC and Ramsar. I attach significant weight to the views of Natural England as the statutory adviser on the natural environment in England.

Local residents submit, and I have some supporting photographic evidence, that the appeal site is used for feeding, particularly in winter months, by bird populations which are part of the qualifying feature of the SPA. Consequently, the loss of the appeal site, in combination with other approved developments<sup>23</sup> would have a likely significant effect. Given the proximity of the appeal site to the estuarine marshes and waters I have little doubt that bird populations associated with the SPA will feed from time to time on the appeal site and adjoining pasture land. However, I have very little evidence that the loss of the appeal site, which the appellant submits at 2 hectares represents an infinitesimal quantity of available feeding ground around the SPA, even in combination with other proposed developments, would have a likely significant effect on SPA bird populations. I was also advised that there is no buffer restricting the principle of development within a certain distance of the SPA. Accordingly, I find the appellant's HRA conclusions, and the evidence it is based on, persuasive that there would be no likely significant effect on the integrity of Natura 2000 sites.

### **Conclusions and Planning balance**

48. I have concluded that Aldcliffe would be a sustainable location for the scale of development proposed and given the lack of a five year supply of deliverable housing land in the District the NPPF's presumption in favour of sustainable development would apply to the appeal proposal. However, the NPPF does not define sustainable development in narrow terms and sets out at paragraphs 6 to 9 that the three dimensions of sustainable development (economic, social

<sup>22</sup> Conservation of Habitats and Species Regulations 2010

<sup>23</sup> Specific reference to Arna Wood Solar Farm development

and environmental) must be sought jointly and simultaneously. This is consistent with the planning balance required by paragraph 14 of the NPPF to determine that the appeal proposal would represent the sustainable development for which there is a presumption in favour.

49. I have very little evidence on the economic benefits of the appeal proposal, other than to draw a generalised conclusion that it would result in employment during the construction phase. In terms of the social dimension of sustainability the appeal proposal would be safe in highway terms and would not result in a severe residual harm to detriment of the health of users on the local highway network. However, this is an expected requirement of development and as such it is neutral effect rather than a positive benefit.
50. The appeal proposal would provide new homes including either a proportion of affordable housing on-site or a contribution towards such provision elsewhere. Given the scale of unmet housing need arising from the under-delivery against the current housing requirements the boost to the supply of housing through the appeal proposal would be a notable positive factor to weigh in the balance in terms of the social dimension of sustainable development.
51. In terms of the environmental dimension of sustainable development I have found that the appeal proposal would not result in likely significant effects on Natura 2000 sites. However, the position of the appeal proposal at the rural edge of Aldcliffe on land that is conspicuously elevated in a locally important and distinctive landscape of low coastal drumlins along the Lune Estuary would mean that the appeal proposal would have a significant and demonstrable adverse impact on the wider landscape and the localised character of Aldcliffe Hall Lane. The harm would be experienced from numerous public vantage points within a tranquil estuarine environment which is widely used for recreation purposes including the nearby River Lune Millennium Park Multi-use. Due to the rising landform, which has the characteristics of a drumlin, the harm would not be capable of effective mitigation in the short to medium term. As such the incongruously exposed extension to the pattern of settlement at Aldcliffe would be contrary to the established strategy for managing this distinctive landscape.
52. Accordingly, I find that the adverse environmental impacts on the character and appearance significantly and demonstrably outweigh the benefits that have been identified including the contribution to housing supply. As such the appeal proposal does not constitute the sustainable development for which there would be a presumption in favour of.
53. The appellant has submitted a signed and dated UU which would make a financial contribution towards the provision of affordable housing. However, because I am dismissing the appeal for other reasons it is not necessary for me to consider in detail its provisions further.
54. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*David Spencer*

INSPECTOR.

## APPEARANCES

### FOR THE APPELLANT:

Mr Mustaq Mister	Appellant
Mr Paul Tunstall	JWPC Ltd
Mr Petros Price	Modal Group Ltd
Mr Ken Halliday	Director, Stephenson Halliday

### FOR THE LOCAL PLANNING AUTHORITY:

Ms Eleanor Fawcett	Planning Officer, Lancaster City Council
Ms Rebecca Richards	Planning Policy, Lancaster City Council

### INTERESTED PERSONS:

Mr Chris Norman	Local Resident
Mr Eddie Graves	E G Planning on behalf of Mrs G Waters
Mr Nick Webster	Local Resident

### DOCUMENTS Submitted at the Hearing

1. Site Location Plan and Decision Notice Arna Wood Farm Solar Arrays
2. Decision of Hopkins Homes Ltd v. SSCLG & Suffolk Coastal District Council Case No: CO/3971/2014 [2015] EWHC 132 (Admin)
3. Lancaster District Local Plan Proposals Map Inset 1 – April 2004
4. Extracts from 2014 Strategic Housing Land Availability Assessment
5. 2015 Housing land Monitoring Report – Lancaster City Council
6. July 2015 Five Year Housing Land Supply Position – Lancaster City Council
7. Map showing Bus Routes and Bus Stops
8. Map Showing National Cycle Network
9. Map showing extract from OS 1<sup>st</sup> Addition for Aldcliffe
10. LERN Map showing Appeal Site relative to Biodiversity Sites
11. Decision Notice for Arna Wood Farm Solar Arrays, Ref 14/00907/FUL
12. Site Location Plan for Land to The South of Aldcliffe Hall Drive Dwg L3189/01/A

13. Decision Notice for Land To The South of Aldcliffe Hall Drive, Ref 14/00671/OUT
14. Committee Report for Land To The South of Aldcliffe Hall Drive, Ref 14/00671/OUT
15. Unilateral Undertaking Signed and Dated 3 September 2015
16. Amended Plan BB076 at 1:1250 scale showing land ownership of the Appellant
17. Extract from Manual For Streets 2, including paragraph 8.5.2

DOCUMENTS Submitted After the Hearing

18. Complete Unilateral Undertaking signed and dated 3 September 2015 with site location plan and annexes, received 7 September 2015

Richborough Estates