



Appeal Decision

Hearing held on 29 October 2015

Site visit made on 29 October 2015

by Keith Manning BSc (Hons) BTP MRTPI

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

Decision date: 29 January 2016

Appeal Ref: APP/A2335/W/15/3030436

S J Bargh Ltd, Hornby Road, Caton, Lancaster LA2 9JA

- 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 James Reneghan of S J Bargh Ltd against the decision of Lancaster City Council.
 - The application Ref 14/00768/OUT, dated 10 July 2014, was refused by notice dated 12 November 2014.
 - The development proposed is residential development to a maximum of 30 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for residential development to a maximum of 30 dwellings at S J Bargh Ltd, Hornby Road, Caton, Lancaster LA2 9JA in accordance with the terms of the application, Ref 14/00768/OUT, dated 10 July 2014, subject to the conditions set out in the annex hereto.

Preliminary and procedural matters

2. The application is wholly in outline and therefore the various plans save for the location plan I treat as purely illustrative.
3. The application is supported by a planning obligation. This essentially provides that 30% of the houses built shall be Affordable Housing and allocated in accordance with local needs priorities as defined therein and that open space shall be provided within the site subject to specified management arrangements. The agreement had not been signed at the time of the hearing owing to practical difficulties. I therefore allowed a period for completion.
4. Although the planning obligation was subsequently signed it was prepared "in escrow" for reasons that are not entirely clear. Although commonplace in other contexts, this procedure is unsuitable in the context of a planning appeal, essentially because the Secretary of State or the appointed Inspector is unable to place weight on an instrument that does not formally exist. Moreover, the procedure is unnecessary because standard practice is to make such agreements contingent upon the appeal in question being allowed. In view of my conclusions on the main issues I therefore issued a 'minded to allow' letter contingent upon proper completion of the obligation within a specified timescale, allowing for minor redrafting to make the agreement conditional upon the appeal being allowed. An agreement in the proper form was duly completed on 14 December 2015.

Main Issues

5. I consider the main issues to be as follows:-

- Whether the proposed development would conflict with, or accord with, the intentions of the development plan regarding economic development in rural areas;
- If the proposed development would conflict with the intentions of the development plan, whether there are there material considerations which would potentially outweigh such conflict; and
- Whether the proposal would represent sustainable development for the purposes of the National Planning Policy Framework ('the Framework').

Reasons

Physical and policy circumstances

6. The appeal site and relevant applicable policy are described in detail in the Statement of Common Ground (SoCG) dated 4 September 2015.
7. The appeal site essentially comprises an extensive area of hardstanding within which a motor repair and maintenance building with two storey office additions to the rear is situated, off-centre towards its western margin with a residential area of Caton, from which the site is separated by the Artle Beck, a tributary of the River Lune. The site is traversed by an easement for the Thirlmere Aqueduct, a significant constraint on the form of redevelopment which could occur.
8. The western part of Caton, save for the appeal site, lies to the west of the Artle Beck but the eastern part of the village, also known as Brookhouse, lies to the east of the beck, separated from the appeal site by open fields south of Hornby Road and the western part of the village by a narrow neck of open land in the vicinity of Artle Beck Bridge on Brookhouse Road. A public footpath along the eastern side of the Artle Beck joins Brookhouse Road to Hornby Road near the western end of the appeal site.
9. The northern margin of the appeal site abuts a disused railway that has been transformed into a strategic leisure route for cyclists and pedestrians within the Lune Valley and is attractively fringed with a mixture of largely indigenous deciduous trees together with some evergreens. The south eastern part of the site has been planted up in the past for screening purposes with quick growing conifers which have reached a very considerable height and appear still to be vigorous and actively growing.
10. The site, including a substantial part of the coniferous screen, fronts the A683 (Hornby Road). This is the principal route along the Lune Valley and it joins the M6 approximately 3 kilometres to the west of the village, the centre of which lies a short distance west of the appeal site.
11. The premises have been standing vacant since the owners moved their milk tankering business to new premises in Lancaster west of the M6. The premises have not, however, been placed on the market.

12. The site and the village are within the Trough of Bowland Area of Outstanding Natural Beauty (AONB). But for the trees around its margins, the site would be widely visible from higher ground within the AONB.
13. Relevant policy is primarily within the Framework and the development plan. The latter comprises the saved policies of the *Lancaster Local Plan* (adopted 2004), the *Core Strategy* (adopted 2008) and the *Local Plan for Lancaster District 2011-2031 Development Management Development Plan Document* (the DMDPD). The DMDPD was adopted in December 2014 shortly after the application was refused by the Council.
14. In view of the complexity of the documentation now comprising the development plan the Council published in the same month a 'strategic guide' which essentially is a key to policies, or parts thereof, which remain current. It states, in relation to saved policy EC16 of the Local Plan (which is said to be now only partially relevant following its replacement by policy DM15 of the DMDPD) that..... *"the spatial element of this policy, where rural employment areas are identified remains valid until it is replaced by the Land Allocations DPD. However the generic criteria provided have been replaced by guidance in Policy DM15 of the Development Management DPD."*
15. Policy EC16 of the Local Plan states that..... *"Proposals for non-employment development on the following rural employment sites will not be permitted:"* It then lists specific sites including Willow Mill in Caton, but not the appeal site. Therefore, notwithstanding paragraph 4.4 of the SoCG, it seems to me that saved policy EC16 is now wholly irrelevant for the purposes of this determination. The most relevant policy is DM15 of the DMDPD. The parties agreed at the hearing that this would be the case and I return to this in more detail in considering the first issue below.
16. Core Strategy Policy SC1 was referred to in the Council's decision notice but again has been superseded in part by the adoption of the DMDPD. The strategic guide explains that the locational aspects of the policy remain relevant but that the development control criteria set out in the second part of the policy are no longer relevant. I have no reason to take a different view. The DMDPD contains a range of development management policies which I refer to only to the extent that it is necessary to do so.
17. Of particular relevance, however, is policy DM28 of the DMDPD which essentially requires great weight to be given to the aims of nationally designated landscapes, in this case the AONB, consistent with the intentions of paragraph 115 of the Framework. Paragraph 116 applies to what are termed major developments within AONBs, and while I am conscious that the officer's report on the application referred to the proposed development as 'major' for this purpose I am equally conscious that it did not subsequently analyse the acceptability of the proposal in the terms set out in paragraph 116 or seek to refuse it in on the grounds that it did not meet the relevant tests therein. I therefore place little weight on the Council's apparent position in respect of that matter.
18. 'Major development' is nowhere defined in the Framework but the Planning Practice Guidance (PPG) is clear that... *"whether a proposed development in these designated areas should be treated as a major development, to which the policy in paragraph 116 of the Framework applies, will be a matter for the relevant decision taker, taking into account the proposal in question and the*

local context." I am therefore obliged to consider the point in order to approach my decision in the proper fashion. By virtue of section 85(1) of the Countryside and Rights of Way Act 2000, I am obliged to have regard to the purpose of conserving or enhancing the natural beauty of the AONB, whether or not I consider the proposal represents major development. By virtue of paragraph 115 of the Framework I must in any event give great weight to the aim of conserving the landscape and scenic beauty of the AONB, as it commands the highest status of protection in respect of these matters.

19. I have given careful thought to the question of whether or not the proposal represents major development, taking into account the views expressed by the parties at the appropriate point in the hearing. I have also borne in mind the circumstances of the site at issue in the *Mevagissey*¹ case of which I am aware as this involved a development of very comparable scale (in that case 31 houses on 1.20 hectares) deemed to be 'major'. I am of the view that the term in the ordinary sense of the word of course bears some relationship to scale, but not to the exclusion of other relevant factors. It is very clear from PPG that local context within the AONB is also influential.
20. In this case, the site for up to 30 dwellings on 1.24 hectares as proposed, whilst clearly of an appreciable scale in a rural area, is not only adjacent to the village, which is a substantial village, but is contained by the essentially man-made feature of a former railway now re-used as a leisure route and the main road along its southern boundary. Moreover, it is extensively covered by concrete hardstanding and contains a substantial building and various paraphernalia associated with its last active use as a tanker depot. It contributes little, if anything, to the natural beauty of the AONB, which is clearly a very different circumstance to that pertaining in the legal case I have referred to. On the contrary, much of it has a decidedly negative effect and the impact of re-development of the site on the AONB would be much reduced by comparison with an equivalent development on a greenfield site, more particularly if this were to be located in open countryside away from urban influence.
21. Clearly, in the light of the absence of definition in the Framework and the explicit guidance on the point in PPG, I am not in this particular case constrained to conclude in the light of *Mevagissey*, or any other appeal decision or legal case that I am aware of, that the development proposed here is 'major' for the purposes of Framework policy, albeit I consider *Mevagissey* is suggestive of the scale of development that might in many circumstances be classified as such. Nevertheless, it is clear that the local context here is quite different, not least in view of the baseline the site itself provides, bearing in mind its lack of positive contribution to the AONB. On balance, notwithstanding the appreciable scale of the proposed development, I do not consider it warrants the specific classification 'major' for the purposes of the national policy articulated in paragraph 116 of the Framework. But that does not diminish the great weight that the objects of the AONB designation merit in respect of the intentions of paragraph 115.
22. In the light of the policy and physical circumstances of the site, the known view of the Council and local residents who have made representations, the question is not whether the site should be redeveloped but rather what form should

¹ [2013] EWHC 3684 (Admin)

redevelopment take. That question leads directly to the first issue concerning the recently adopted development plan.

Accordance with development plan and consequential issues

23. Policy DM15 of the DMDPD seeks to retain existing and recently vacated employment land and buildings within the stock of opportunities for locating economic activities (which, for the avoidance of doubt, does not include residential development in this context). Criterion iv) of the policy accordingly requires evidence of serious marketing for at least 12 months before an alternative use may be contemplated. The parties did not agree on aspects of interpretation of this policy, notably whether or not criterion vi) applies directly to exempt the proposal from criterion iv). Criterion vi) requires that the re-use of employment land (for non-employment purposes) meets the wider regeneration objectives set out in the Local Plan or that the benefits of the proposal should outweigh the loss of the site for employment purposes if such an exemption is to apply. The alternative exemption in Criterion v) of the policy was not suggested as applicable and I have no reason to consider that it would be.
24. The starting point, unless it is demonstrably not the case, must be that the Council understands the intentions of its own recently adopted policy. Nevertheless, the appellant company maintains that its understanding, from the outset, was that the emerging and subsequently adopted DM15 would permit re-development for non-employment purposes, without evidence of marketing for such, because, amongst other things, the intention of criterion vi) is to admit the prospect of non-employment development where such development "*would meet the wider regeneration objectives set out in the Local Plan...*" This is not a view that the Council shares, albeit I understand that a mixed use approach incorporating some residential use was contemplated in discussions with the appellant.
25. Be that as it may, in justification of its stance, the appellant company prays in aid the supporting text to policy ER2 of the Core Strategy, which at paragraph 5.7 explains that regenerating areas of need within the district is a key priority, before presenting an exposition of what the multi-faceted concept of regeneration generally involves in practice but crucially the aim is to create better places and to "*narrow the gap between struggling and successful places*". (The emphasis is mine.)
26. The regeneration priorities of the Local Plan undoubtedly, therefore, have a spatial manifestation, general principles notwithstanding. Moreover, the express purpose of policy ER2 is to "*set out a Strategic Spatial Framework for Regeneration in Lancaster District*". It then proceeds to do exactly that but nowhere does the Framework include Caton or rural areas in general. I have no hesitation in concluding that re-developing the appeal site for non-employment use would not meet the wider regeneration objectives set out in the Local Plan. It seems to me that these cannot be divorced from their explicit spatial targets and that the appellant's interpretation is therefore incorrect in this instance. The Council's construction of its policy objectives in this respect therefore stands.
27. While the distinctly urban emphasis of the Local Plan regeneration objectives places the proposal outside the intentions of development plan policy regarding economic development in rural areas, there is another facet to criterion vi) of

DMDPD policy DM15; namely, the alternative exemption embodied in the words... *"or where the benefits of the proposal outweighs the loss of the site for employment purposes."* This approach of balancing costs against benefits is consistent with the Framework and I note that paragraph 10.8 of the DMPD, in the explanation to DM15, acknowledges that, in accordance with the Framework the Council will... *"not seek to retain employment uses which have no reasonable prospect for employment purposes, whether this is due to economic factors, site location or the condition/state of the buildings on the site..."*; albeit this is presented in the context of an expectation of marketing as set out in paragraphs 10.9 and 10.10 of the explanation.

28. Paragraph 10.12, I note, emphasises the value of affordable premises to local service such as car repair, skip hire, builders' yards and the like as well as business start ups, and I also note that housing is seen as the main threat to the accommodation of such uses owing to the high value of land for that purpose.
29. Notwithstanding the clear importance of the policy aim behind criterion iv) of DM15, it is nevertheless clear that 12 months' marketing cannot be required in all cases by the policy itself because the other criteria v) and vi) apply in the alternative and the second limb of criterion vi) permits a wide discretion to consider the merits of any particular situation in the round. Therefore the key question in determining accordance or otherwise with policy DM15 is whether or not the likely benefits of the proposal in this instance outweigh the underlying presumption of the policy that employment use is to be preferred; and I consider this balance below.
30. I have noted that housing is the principal contender, according to the Council, as the alternative use that might remove otherwise perfectly serviceable employment land and premises from the market and I have no reason to doubt the logic of that where the environmental context of any particular site is conducive to the residential market, as is undoubtedly the case at the appeal site. Nevertheless it has to be recognised, in the context of the national imperative to boost housing supply², that the suitability of the site for housing is an important consideration in this case. There is no suggestion that the Council can currently demonstrate a five year supply of deliverable housing sites.³ The Council's figure is 3.3 years worth of supply⁴. For various reasons the appellant asserts⁵ that the actual supply stands at 2.29 years. Either way the shortfall is not a marginal one and the Council's figure alone requires that substantial weight be accorded in the balance to the need for housing.
31. Of course, housing need is not the sole determinant in a case such as this, where convincing evidence that the site is better reserved for employment could potentially demonstrate conflict with DM15 notwithstanding significant shortfall in housing land supply. I am conscious in this context that the most recent survey of employment land⁶ for the District relative to predicted demand embraced formal allocations only and suggested a modest surplus of land and premises for manufacturing and distribution and a modest shortfall in respect of offices. Whilst it did not address the needs of the rural areas of the District

² Framework paragraph 47

³ SoCG paragraph 6.1

⁴ A Local Plan for Lancaster District: Five year housing land supply position – July 2015 (paragraph 3.18)

⁵ Appendix to appellant's statement of case, section 3.5

⁶ Review of the Employment Land Position for Lancaster District Final Report 2014

specifically, neither did it examine the range of small scale employment sites across the district, which the Council accepted could be relatively numerous. It does note the "average" quality of the existing supply of rural employment allocations that do exist but concludes and that they are generally satisfactory for local demand. Also, without defining the area, it notes that there is generally very little floorspace in the "rural east" of the District. However, I concur with the appellant's assessment that Caton is effectively on the margins of that area, relatively close to the significant mass of employment and employment development opportunity west of the M6 the motorway, and note that this has improving prospects due to current road construction.

32. It is also noteworthy that Willow Mill in Caton is said by the survey to "*be attractive to local professional SME's who require good quality office space*". However, whilst the M6 corridor is acknowledged to be generally attractive to employers, I have no evidence that the appeal site would be attractive for substantial new build office space, even supposing that to be a sustainable proposition in transport terms. Whilst there is no market evidence specific to the appeal site, its history and condition suggest to me that, if anything, it would tend to attract low grade uses including haulage rather than significant investment in new premises.
33. It is also pertinent that the appellant company has moved within the district to new premises west of the motorway which remain accessible, including via the cycleway I have described, to existing staff residing in Caton. By moving off the site it seems the company has improved its prospects for future prosperity.
34. The Council argues that the site's main road frontage and ready access to the motorway is a particular advantage. However, the characteristics of the site are such that it is likely to be occupied by companies, including those focussed on HGV movement and parking, requiring low quality and consequently cheap premises. Although no specific market and development appraisals of the site were adduced, in my assessment the likely expense of redevelopment for high quality premises, and the competition from higher quality sites with better motorway access and market profile, would militate against the possibility. Whilst it has not been formally marketed, the anecdotal evidence of the appellant is to the effect that since it has become known and obvious in the locality that the site has been vacated, the very few spontaneous inquiries received have been in respect of low value or temporary uses, notably in view of the extensive hardstanding. While I place little weight on such evidence of itself, the circumstances of the site are such that I do not find it in the least surprising.
35. Moreover, whilst the A683 does of course carry a range of HGVs and other such traffic along the Lune Valley, the relatively short stretch through Caton and hence to the motorway is characterised by narrowness and bends nonetheless and, whilst it obviously does cope, I am not persuaded of the planning advantages of the site for uses which might generate additional HGVs at this location.
36. The appellant has invested considerably in analysis of the economic benefits of housing but no truly comparable analysis was presented in respect of high quality redevelopment for employment purposes, albeit it is clear that the ongoing effects of up to 130 full-time equivalent jobs in the event that the site were to be redeveloped for manufacturing industry would obviously be

considerable.⁷ However, in view of my doubts as to the attractions of the site for such a purpose, I consider, if anything, the very much lower figures associated with re-use of the existing premises and hardstanding for low-grade uses to be a more credible scenario.⁸

37. The site is sustainably located in the context of the existing settlement and its services; and would undoubtedly contribute to maintaining those if developed for housing. Whilst there are economic benefits in housing development as the evidence of the appellant attests, these are generally recognised in the context of national policy in any event, as are the social benefits of meeting housing needs including the need for affordable housing and, as I have noted merit substantial weight in the local circumstances, owing to the shortfall in housing land supply.
38. I turn now to the environmental advantages of housing, in principle, on this particular site, bearing in mind my obligation to have regard to the conservation or enhancement of the natural beauty of the AONB and the great weight that the objects of the AONB designation merit in the context of the Framework.
39. I have previously noted the existence of the coniferous screen and accept that it would have a role in partially screening previous and possible future unsightly uses on the hardstanding area in particular, especially from the main road and high ground to the south of the village. Retention of that screen would certainly not be compatible with housing development, owing to shading, and I consider it would not necessarily be reasonable to require its retention even if the site were to be redeveloped for manufacturing or warehousing, as its overbearing and overshadowing presence could well inhibit or constrain the occupier's use of a good portion of the site.
40. In any event, having considered the visual impact of these alien trees in the context of the AONB, especially on the approach to Caton along the A683 in the Lune Valley from the east, I see no advantage in their retention. On the contrary, they stand out as a prominently incongruous feature in a landscape pleasantly characterised by native species of variable colour and form, such as those along the northern boundary of the site and in many locations around the village and its rural setting. The village within its AONB context merits a much more visually subtle approach utilising more appropriate species in scale with existing hedgerows and woodland. While redevelopment of the site for one or more factories or warehouses could utilise more appropriate species, the imperative of an efficient plot ratio and utilitarian layout for employment purposes would tend to make for peripheral filtering of intrinsically bulky built form rather than the substantially more attractive appearance which a well designed and relatively low density housing development, with appropriate landscaping throughout, could bring to this important approach to the village, with consequential benefits to the overall attraction of the AONB in the locality.
41. The Framework emphasises the role of local people in shaping their environment and whilst care must be exercised in presenting local communities with limited options as opposed to a range of possibility, as my questions of the appellant at the hearing tended to emphasise, I have nevertheless been impressed by the views of the local community that this previously-developed

⁷ Doc 4

⁸ Ibid.

land could effectively be used for an appropriately designed housing scheme. For the reasons given above, I do not consider that redevelopment for employment, including the mixed use approach mooted by the Council, is likely to be so effective in this respect, even if a new build scheme were to materialise. Rarely have I come across consistent support⁹ for housing development, for planning reasons, in a rural area designated for its natural and scenic beauty and I consider this to be a material consideration that goes directly to the question of weighing potential benefits against loss of employment land as criterion vi) of policy DM15 anticipates and permits. I was particularly impressed by the helpfully succinct and considered exposition of community feeling proffered by the local ward councillor who attended the hearing.¹⁰ It seems to me this is a case where local opinion generally accords with powerful factors favouring the proposal at issue.

42. The Framework, at paragraph 22, counsels against the long term protection of sites allocated for employment use where there is no reasonable prospect of them being used for that purpose. It advocates regular reviews and consideration of alternative uses on their merits having regard to market signals and the relative need for different land uses to support sustainable communities. The appeal site is not allocated for employment use but that was its most recent use and the development plan objective of conserving an appropriate portfolio of employment sites whether allocated or not is an important objective in the context of the Framework's aims to build a strong, competitive economy. Nevertheless, although its paragraph 22 is not strictly applicable in this case, the spirit of its advice is pertinent nonetheless and relevant to the planning balance set out in the second arm of criterion vi) of policy DM15.
43. All in all, bearing that in mind, I consider that the current in-principle residential proposal for the appeal site does hold out the prospect of significant benefits which go beyond the mere satisfaction of housing need in a situation of uncontested shortage of deliverable housing sites, important though that is. Not least, the proposal, subject to appropriate and effective control of design, holds out the prospect of real improvement to the character and appearance of the eastern approach to Caton in the context of the AONB designation. For all the above reasons, notwithstanding that I consider the appellant company to have misapplied the first limb of criterion vi) of DM15, I am of the clear view that, in this particular instance, the benefits of the proposal would outweigh the loss of the site for employment purposes; and on that basis I concur with the appellant company that the second limb of the criterion is satisfied.
44. It follows that, insofar as this is a proposal involving the loss of employment land and premises to an alternative use to which policy DM15 applies, and notwithstanding its location in a rural area of the District, it would nevertheless accord with the intentions of the development plan. Subject to the application of conditions and the provisions of a suitable planning obligation, I do not consider that the objects of any other development plan policies would be unacceptably compromised.
45. It therefore follows that it is not necessary to consider my second issue in the manner in which it is cast. Furthermore paragraph 14 of the Framework states that for decision-taking the presumption in favour of sustainable development

⁹ Statement of Community Involvement 30 June 2014

¹⁰ Doc 6

means approving development proposals that accord with the development plan without delay, unless material considerations indicate otherwise. As I have concluded that the proposed development does accord with the development plan, and there are no material considerations sufficient to lead me to a contrary view, it follows that it would represent sustainable development for the purposes of the Framework and should therefore be approved, subject of course to the proposed planning obligation and appropriate conditions.

Planning Obligation

46. Bearing in mind the intentions of policies DM41 of the DMDPD concerning affordable housing and policies DM25 and DM26 concerning open space, I consider the substance of the planning obligation to be necessary, proportionate and otherwise compliant with Regulation 122 of the Community Infrastructure Regulations 2010 and I have no reason to consider that it would not comply with Regulation 123. In considering the benefits of the proposal I therefore accord weight to the planning obligation in concluding that the proposal would accord with the intentions of the development plan as I have indicated.

Planning Conditions

47. I have considered the matter of conditions in the light of PPG and the retained annex to Circular 11/95. The Council suggests a number of conditions (SC) not all of which are necessary. It was agreed that SC2 and SC7 were unnecessary. Notwithstanding the description of development I consider it would be necessary to define the permission more precisely to restrict it to a maximum of 30 dwellings, bearing in mind its outline nature. Moreover, in view of the visual sensitivity of the location and the importance of achieving a scheme that settles unobtrusively into an improved landscape setting within the site itself and into the high quality and sensitive broader landscape of the AONB in which the site is set, I consider that a condition restricting the height of the proposed dwellings to a maximum of two storeys would be an important and necessary constraint. As all plans bar the submitted location plan are illustrative at this juncture, permission would be spatially defined simply by reference to that.
48. SC1 would supplement the definition of the statutory reserved matters to include boundary treatment but for clarity, and in view of the sensitivity of the site in its setting, I consider it more appropriate to deploy the statutory reserved matters in the conventional fashion whilst imposing a separate condition concerning boundary treatment specifically, following the relevant model in the Annex to Circular 11/95.
49. SC3, in its own terms, would not be necessary because the planning obligation would achieve substantially the same ends in respect of the open space to be provided within the site.
50. SC4 is recommended by the Environment Agency but should be adapted to become a condition precedent in respect of foul and surface water drainage schemes, with specified parameters in respect of the latter; and SC5 would complement this in respect of maintenance of the surface water scheme. The concerns raised by United Utilities regarding the complete separation of foul and surface water drainage would be addressed by the approval process embodied in these conditions.

51. SC6 concerns contamination and is undoubtedly necessary in view of the site's history. SC8 would necessarily require a construction method statement to be approved and adhered to, including any constraints on the hours of working necessitated by the proximity of existing dwellings. SC9 concerning the protection of trees is necessitated by the importance of the existing trees defining the northern boundary of the site.
52. SC11 concerns finished floor levels for visual and flood risk reasons and should be cross referenced to the minimum specified in the in the submitted Flood Risk Assessment, i.e. 21.19m AOD.
53. SC12 concerns lighting and its aim is to avoid harm to bats in the vicinity but should be expressed as a condition precedent. Necessary enhancement and protection measures in the interests of biodiversity are embodied in SC13 and SC14.

Other matters

54. Notwithstanding the generality of support elicited, the proposal has prompted a limited number of concerns at application stage. There is no evidence to suggest that the sense of community in Caton would be significantly undermined by housing of the scale proposed or that it would be too dense to achieve an acceptable environmental outcome. The Council accepted at the hearing that the implied density of around 24 dwellings per hectare would be acceptable notwithstanding that the illustrative layout is for 22 dwellings. I have no reason to disagree even though I am conscious that the easement for the Thirlmere Aqueduct across the site would be influential in the basic disposition of housing and open space and would inhibit tree planting in its immediate vicinity. The more practical concerns expressed regarding matters such as drainage may be adequately addressed by the imposition of planning conditions.

Overall conclusion

55. For the above reasons, and having taken all other matters raised into account, I conclude that the appeal should be allowed. My conclusion and decision in this case turns on the specific merits and circumstances of the appeal proposal and site in the context of the AONB and therefore cannot and should not be taken as an indication that other such proposals would necessarily be allowed, on the basis of accordance with policy DM15 of the DMDPD, or otherwise.

Keith Manning

Inspector

Annex: Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the approved location plan.
- 5) The total number of dwellings on the site shall not exceed 30 and no individual dwelling shall exceed 2 storeys in height.
- 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until detailed foul and surface water drainage schemes have been submitted to and approved in writing by the local planning authority. The surface water scheme shall include, as a minimum:
 - a) Information about the design storm period and intensity (1 in 30 & 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance and easements where applicable, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of flood levels in AOD;
 - b) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
 - c) Flood water exceedance routes, both on and off site;
 - d) A timetable for implementation, including phasing where applicable;
 - e) Site investigation and test results to confirm infiltrations rates; and
 - f) Details of water quality controls, where applicable.The schemes shall be fully implemented, and subsequently maintained, in accordance with the approved details.
- 8) No development shall take place until details of an appropriate management and maintenance plan for the surface water drainage scheme required by Condition 7) above, for the lifetime of the development have been submitted to and approved in writing by the local planning authority. As a minimum it shall include:
 - a) the arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a Residents' Management Company;
 - b) arrangements concerning appropriate funding mechanisms for its ongoing maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as:
 - i. ongoing inspections relating to performance and asset condition assessments
 - ii. operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime; and
 - c) means of access for maintenance and easements where applicable.

The plan shall be implemented in accordance with the approved details prior

to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner. Thereafter the surface water drainage scheme shall be managed and maintained in accordance with the approved details at all times.

- 9) Prior to the commencement of any part of the development hereby approved, including site preparation, demolition and clearance work, the following measures shall be implemented:
- (a) The application site has been subject to a detailed scheme for the investigation and recording of contamination and remediation objectives have been determined through risk assessment and agreed in writing by the local planning authority.
 - (b) Detailed proposals for the removal, containment or otherwise rendering harmless any contamination (the Remediation Method Statement) have been submitted to and approved in writing by the local planning authority.
 - (c) The works specified in the Remediation Method Statement have been completed in accordance with the approved scheme.
 - (d) If during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then remediation proposals for this material shall be agreed in writing with the local planning authority.
 - (e) A Validation Report and Certificate, confirming achievement of the Remediation Method Statement's objectives has been submitted to and approved in writing by the local planning authority, including confirmation of treatment of any unforeseen contamination encountered during remediation.
- 10) Prior to the commencement of any site activity associated with the development, including site preparation, demolition and clearance work, a Construction Method Statement shall be submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors
 - ii) the loading and unloading of plant and materials
 - iii) the storage of plant and materials used during the construction period
 - iv) the erection and maintenance of security fencing
 - v) wheel washing facilities
 - vi) measures to control the emission of dust and dirt during construction
 - vii) hours of construction including all vehicle movements to and from the site
- 11) Prior to the commencement of any part of the development hereby approved, including site preparation, demolition and clearance work, a Tree Protection Plan, in compliance with "BS 5837(2012) Trees in relation to design, demolition and construction" (or any replacement thereof), shall be submitted to and agreed in writing by the local planning authority. The development shall then be carried out in accordance with such agreed detail. No development or any site activity associated with the development, including site preparation/clearance and demolition shall commence until the approved scheme of tree/hedge protection has been fully implemented and has been inspected on site by the Council's Tree Protection Officer and confirmed as satisfactory in writing by the local planning authority. The protection measures shall be retained for the duration of the works, and only removed once the development is complete and all machinery and works material removed from the site.

- 12) Prior to the commencement of any part of the development hereby approved, including site preparation, demolition and clearance work, the following details must be submitted to and agreed in writing with the local planning authority
- A Tree Works Schedule for works proposed to any on or off site trees and hedges in compliance with "BS 3998 (2010) Tree Work" (or any replacement thereof)
 - A detailed Arboriculture Method Statement for all work proposed within identified root protection areas and within 1m of protective barrier fencing, to include the location, and identification of special measures, materials and method of installation for all new surfaces and underground utility services proposed; onsite arboriculture supervision must be included.
- 13) Prior to the commencement of any part of the development hereby approved, including site preparation, demolition and clearance work, details of the finished floor and site levels, in relation to a fixed datum point, shall be submitted to and approved in writing by the local planning authority. No finished floor level shall be less than 21.19m AOD as specified in the submitted Flood Risk Assessment. The development shall be carried out in accordance with the approved details.
- 14) No external lighting shall be installed until precise details have been submitted to, and approved in writing by, the local planning authority. The lighting shall be designed to avoid excessive light spill and must not illuminate bat roosting opportunities within the site or trees and hedgerows in the area. The lighting shall be installed, maintained and operated in accordance with the approved details at all times thereafter.
- 15) No dwelling shall be occupied until a scheme, including a programme for implementation, to provide for bird nesting and bat roosting opportunities within the site has been submitted to and approved in writing by the local planning authority in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved detail and shall be retained as such at all times thereafter.
- 16) The development hereby approved shall be carried out in full accordance with the precautionary mitigation measures set out in section 6 of the submitted Ecological Appraisal, prepared by Envirotech, dated 1 June 2014.

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APPEARANCES

FOR THE APPELLANT:

| | |
|----------------------|-----------------|
| Mr C Garner MRTPI | Garner Planning |
| Miss N Rigby MRTPI | Bilfinger GVA |
| Mr C Scott | R G Parkins |
| Mr J Reneghan | S J Bargh Ltd |
| Mr A Finlayson-Green | S J Bargh Ltd |
| Mr S Cornthwaite | S J Bargh Ltd |

FOR THE LOCAL PLANNING AUTHORITY:

| | |
|----------------|--------------------------------|
| Mrs E Fawcett | Planning Officer |
| Mr P Hatch | Senior Planning Policy Officer |
| Mrs R Richards | Planning Policy Officer |

INTERESTED PERSONS:

| | |
|----------------------------|----------------------|
| Councillor J Jackson | Ward Councillor |
| Parish Councillor H Diggle | Caton Parish Council |
| Mr G Haddon | Local resident |

DOCUMENTS

- 1 Local Plan consultation for Lancaster District October/November 2015
- 2 *Lancaster Independent Housing Requirements Study October 2015*
- 3 Draft planning obligation
- 4 Economic impact calculations for employment development scenarios
- 5 Extract from Strategic Housing Land Availability Assessment Report 2015
- 6 Statement by Councillor Jackson