

## Appeal Decisions

Inquiry held on 2 – 10 August 2016

Site visit made on 3 August 2016

**by Mike Robins MSc BSc(Hons) MRTPI**

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

**Decision date: 28 September 2016**

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### **Appeal Ref A: APP/E2340/W/15/3131974**

#### **Land off Windermere Avenue, Colne, Lancashire**

- 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 Junction Property limited against the decision of Pendle Borough Council.
  - The application Ref 13/14/0580P, dated 15 December 2014, was refused by notice dated 8 June 2015.
  - The development proposed is residential development for up to 90 dwellings, including roads, footways and open space.
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### **Appeal Ref B: APP/E2340/W/15/3131975**

#### **Land off Windermere Avenue, Colne, Lancashire**

- 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 Junction Property limited against the decision of Pendle Borough Council.
  - The application Ref 13/14/0581P, dated 15 December 2014, was refused by notice dated 8 June 2015.
  - The development proposed is residential development for up to 270 dwellings, including roads, footways and open space.
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## **Decisions**

### **APPEAL A**

1. The appeal is allowed and planning permission is granted for residential development for up to 90 dwellings, including roads, footways and open space at Land off Windermere Avenue, Colne, Lancashire in accordance with the terms of the application, Ref 13/14/0580P, dated 15 December 2014, subject to the conditions set out in the Schedule below.

### **APPEAL B**

2. The appeal is dismissed.

## **Procedural Matters**

3. This Inquiry dealt with appeals relating to two overlapping sites. Appeal A, for up to 90 dwellings, and Appeal B, for up to 270 dwellings. Appeal B includes both the area and the proposed housing set out in Appeal A. The two applications were made in outline, with all matters other than access being reserved for future determination. I have taken submitted information such as
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the Masterplan, Development Layout and the Further Information in Respect of Design Principles and Guidance (the Planit Document) as being illustrative.

4. A Statement of Common Ground (SoCG) was submitted to the Inquiry in relation to planning matters, dated 26 July 2016, with an addendum dated 4 August 2016, along with a further statement in relation to conditions. In addition to this, further SoCG were submitted during the Inquiry on: the five year housing land supply (HLS), dated 4 August 2016; ecological matters, dated 3 August 2016, between the appellant and Lidgett and Beyond (L&B), a charity who were granted status to be represented at the Inquiry; and on highway matters, between the appellant and Lancashire County Council Highways Authority (LCC), dated 4 August 2016. A statement addressing technical highway matters, both those agreed and not agreed, dated 4 August 2016, was submitted between the appellant and L&B, and this was accompanied by a further addendum. A SoCG on landscape matters, notably the interpretation of landscape policies in the National Planning Policy Framework (the Framework) was also submitted, signed by all parties and dated 9 and 10 August 2016.
5. Two Unilateral Undertakings, one for each site, signed and dated 12 August 2016, later provided as unified versions signed and dated 5 September 2016, were submitted by the appellant under the provisions of the Town and Country Planning Act 1990. These were to address affordable housing, management schemes, refurbishment of the Pump House, mitigation proposals and contributions. I have considered these later in my decision.
6. In addition to the formal sitting days in the Nelson Town Hall, I carried out an evening session at the Colne Town Hall. This was well attended and the local Member for Parliament, Councillors and local residents were able to address the Inquiry. Furthermore, in addition to the accompanied site visit, I carried out an unaccompanied visit on the 10 August to view the road network from Windermere Avenue out towards Castle Road and south via Venables Avenue to Byron Road. This was in addition to a number of trips made during peak and out of peak hours along the North Valley Road link to Vivary Way and the M65.
7. The Council's original decisions referred to three reasons for refusal for both schemes. However, the Council have explicitly sought not to defend their third reason<sup>1</sup> in relation to highway matters. Nonetheless, highway concerns were part of the case presented by L&B.

## **Main Issues**

8. I identified three main issues at the outset of the Inquiry, the effect on the character and appearance of the area, on the significance of heritage assets and on highway safety. In light of the agreement between the main parties that the Council could not, at present, identify a five year HLS, such assessment would normally address compliance with the development plan alongside material considerations, including the Framework's presumption in favour of sustainable development. However, it was an agreed matter between the parties that, following the judgement of the High Court in *Forest of Dean*<sup>2</sup>, a different approach needs to be taken regarding the effect on heritage assets,

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<sup>1</sup> SoCG (Planning) Paragraph 7.61

<sup>2</sup> *Forest of Dean DC v SSCLG* [2016] EWHC 421 (Admin)

and any balance applicable to that when set against the public benefits of the proposals. This needs to take place prior to consideration of any other matters or in light of the agreed position on the HLS.

9. In policy terms, Policy SDP 1 of the Pendle Local Plan Part 1: Core Strategy (the Core Strategy) sets out the presumption in favour of sustainable development, which includes reference to policies in the Framework which would indicate that development should be restricted. I concur with the position put by the main parties in this case; that paragraph 134 of the Framework represents a policy of restriction.
10. Accordingly the first main issue must be considered as being the effect of the proposed housing on heritage assets. Following the assessment of any harm to the significance of such assets and the degree of harm, if necessary an 'unweighted' balance need be applied in accordance with footnote 9 to paragraph 14 of the Framework and consequently, paragraphs 133 or 134. Only where the benefits are shown to outweigh any harm would the further main issues of the effect on the character and appearance of the area and highways safety be considered, and the material consideration of the presumption in favour of sustainable development, as articulated in Policy SDP1 and paragraph 14 of the Framework, engaged.

## **Reasons**

### *Background and Policy Position*

11. The combined appeal sites form a large area of open grassland to the east of the town of Colne, Site A being approximately 3.9-4.0 Hectares (Ha) and Site B some 13.36 Ha in total. The land is grazed, but appears to have had limited agricultural improvement and there has been a general deterioration of internal stone and hedge boundaries. Two footpaths cross the wider site (Nos 139 and 216) connecting Castle Road to the north with Skipton Old Road to the south. There are no defined footpaths crossing Site A, although No 139 runs adjacent to its eastern edge. The western edge of the combined site abuts housing on Favordale Road and Windermere Avenue and the grounds of Park Hill School. Castle Road and Windermere Avenue are proposed as the access points for vehicles to the proposed housing.
12. Located to the south of the site lies the Lidgett and Bents Conservation Area (the CA), part of which extends beyond Skipton Old Road and into both sites. Included within the CA are four listed buildings, Heyroyd, Standroyd, the former Toll House and No 3 Lidgett, all Grade II listed. The area has a Character Appraisal, dated 1999<sup>3</sup>.
13. The Council accepted during the Inquiry that there has been developer interest in the sites for a considerable time. Nonetheless, the sites have been considered in the preparation of previous development plans and, on their adoption, have benefitted from certain designations and policies as a result of this. The development plan itself is in the process of review, but at the present time comprises the Replacement Pendle Local Plan (the RPLP), whose relevant policies have been saved, and the Core Strategy, adopted December 2015, which represents Part 1 of a two part process. Part 2 is the emerging Site Allocations and Development Policies Development Plan Document (LPP2),

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<sup>3</sup> CD PBC 3.1

which will identify specific sites for development and policies providing further guidance or requirements of development. Although anticipated for 2017, the Council accepted that there was no exact timescale for its adoption.

14. As defined by the RPLP, Site A falls within the settlement boundary of Colne albeit identified as an Site of Settlement Character. Saved Policy 12 seeks to protect such areas, although the Council accepted that this policy was now under active review. That part of Site B that lies beyond Site A was identified as a Protected Area and abuts Green Belt land. Such areas were protected under Policy 3A but, in accordance with the wording of the policy, only up to 2016. While I note the position set out by L&B that this policy seeks longer term protection of such areas, which should only be lifted following re-examination, the policy is explicit regarding the date, and the Council's more pragmatic interpretation indicates that this policy should be considered out of date in light of the identified housing needs set out in the Core Strategy.
15. This matter was considered by a colleague in a recent appeal<sup>4</sup>, who concluded that housing on such protected areas would not conflict with the policy because the identified period to 2016 has now passed. At the time of its designation as a Protected Area, such protection was identified as necessary to assist in urban regeneration, encouraging housing development on derelict and other brownfield sites; this is not the case now. All parties accept that housing will have to be delivered on both brownfield and greenfield sites in order to meet the housing needs of the area. This is clearly set out in the Core Strategy and accordingly Policy 3A can be considered time limited such that the proposals would not be in conflict with it.
16. Evidence supporting the Core Strategy included a Strategic Housing Land Availability Assessment (SHLAA)<sup>5</sup>. The appeal sites were included, as site SO12 and SO10, and were considered to potentially deliver housing within the 5 year period, contributing to the Council's assessment of their HLS. Indeed the CS examining Inspector noted that in the interim period between adoption of the Core Strategy and that of the LPP2, sites included in the SHLAA should be considered to ensure the Council continue to demonstrate their 5 year supply of housing land; this was included in the Core Strategy under Policy LIV1.
17. Nonetheless, such sites, although identified in the SHLAA, must still be considered against the development plan as a whole and all material considerations. Furthermore, I must have special regard to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the CA in accordance with Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). This statutory duty is reflected in the Framework in paragraph 132, which maintains that when considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the asset's conservation, the weight being dependant on the importance of the asset. The Framework identifies that significance can be harmed by alteration or destruction of the asset or development within its setting.

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<sup>4</sup> APP/E2340/W/15/3035915

<sup>5</sup> Updated December 2015

### *Heritage Assets*

18. A number of assessments of the effect on heritage assets have been carried out, initially by the appellant and subsequently by witnesses for the Council and L&B to inform the Inquiry. I draw little from the debate regarding methodologies. While use of the latest guidance from Historic England should be considered good practice, it seems to me that use of earlier, but still extant approaches, in this case hybridised somewhat with later guidance, is not invalid. Indeed at their heart such assessments are essentially judgements.
19. The appellant's final conclusions were that, subject to a sensitive design approach at the reserved matters stage, there would be neutral or negligible effects in relation to the listed buildings and the CA, a position they considered reflected that of the Council's own Conservation Officer when considering the applications. They argued that the CA in this part is inward looking, with the appeal sites, albeit lying partly within the CA itself, having an otherwise limited role in the setting of the CA.
20. To indicate how such a design approach could be realised, the appellant had commissioned a townscape study and a limited design and layout proposal of the frontage to Old Skipton Road, supported by wider design objectives and guidance; the Planit Document. This evolved during the course of the Inquiry, but indicated a relatively open grain of development along the top of the embankment to the road and an open landscaped section along the footpath heading into the appeal site. Notwithstanding that such detail remains a reserved matter, what is before me is whether the principle of housing development, that would be both within and adjacent to the CA and other associated heritage assets, is acceptable.
21. Critical to such an assessment is the need to not only understand the physical characteristics and interrelationships of the heritage assets that contribute to the significance, but to fully understand how they are experienced and consequentially their settings.
22. The CA Character Appraisal identifies the special interest of the area as residing in its history, architecture and contrasting rural appearance and character. It sets out the importance of the area in interpreting the transition from agriculture to handloom weaving, noting that such practice survived within the cottages specifically adapted or built for that purpose until late into the 19<sup>th</sup> Century. It further describes how the development of power loom cotton weaving centralised within the towns led to a decline in weaving here and reversion to agriculture and later emergence as a predominantly residential area with strong Victorian elements and some later 20<sup>th</sup> Century housing.
23. The four original settlements identified by the appraisal were Lidgett, Standroyd, Bents and Heyroyd, but the CA as a whole now comprises sporadic linear development along the two main road axes, Skipton Old Road and Keighley Road, connected by Bents and Bent Lane and extending into the associated fields and identified farmsteads surrounding the core. The boundary of the CA extends from the Toll House eastwards, encompassing these main roads and the Lidgett Triangle, a further area of grazing land crossed by the central footpath and enclosed by the three main roads, and extending to the fields to the east of Bents and Bent Lane. Near the appeal sites, the boundary

does not follow buildings or gardens but extends into the northern fields and therefore into the appeal sites.

24. This was a matter of some debate at the Inquiry, as while the boundary connects two points associated with properties on Skipton Old Road and on Favordale Road, it does not follow any defined hedge line or similar on the ground. The adoption report and a response regarding this boundary as considered by the Colne and District Committee were provided<sup>6</sup>, in which it was assessed that to include the land to Castle Road would not *'lie well in relation to the area of concern and such a boundary would go too far from Skipton Old Road'*. The report went on to reflect that the area of Lidgett and Bents was considered worthy of designation given its rural and agricultural history and setting, and should inevitably therefore include tracts of land which form the setting as the core of the special interest is the buildings and settlements and their interaction with the surrounding fields, boundaries and trees.
25. While the appellant argues that this strip of agricultural land which cuts into the appeal sites should therefore be considered as contributing to the CA setting, I disagree. It is a fundamental element of the CA that buildings within it interact directly with agricultural land and reflect their historic development and transition to industrial use and subsequently residential. However, without further key building elements to root this relationship further out into the field, such as is found in relation to the eastern fields at Plush Laithe Farm and others, incorporation of the whole of the appeal sites in the CA would not have been appropriate. This does not mean that those areas outside the boundary do not contribute to the setting of the CA, and I address this below.
26. How the CA and its associated listed buildings are appreciate and enjoyed is a function of how they are perceived from within, passing through on roads and footpaths and how they are experienced in views from outside.
27. On passing the tollhouse at the western end of the CA there is a marked change from the relatively modern urban form and activity surrounding the roundabout to a much quieter and initially more enclosed area at the start of Skipton Old Road. The row of weaver's cottages extends ahead and despite some alterations to windows and doors, these retain a strong vernacular character, which is typified by the prominent frontage of the listed building named as No 3 Lidgett, albeit actual numbering seems to differ. Date marked 1749, the merging of residential and commercial use is perhaps evident in the unusual fenestration.
28. Almost immediately the character opens out with views into the Lidgett triangle and then to views up the embankment to the appeal sites. To my mind this clearly roots the houses here in a rural setting, and further along the lane, while somewhat contrasting, the more enclosed and overgrown sunken lane, experienced when passing Standroyd, reinforces this rural character.
29. On entering Bents, an intimate and tranquil lane lined with more weaver's cottages, the historic relationship between the land and the emerging handloom weaving industry continues. While the later housing towards the southern end of Bent Lane represents more overtly residential occupation and subsequent infill, the majority of properties retain that direct relationship with agricultural land. I was able to walk the full triangle of roads and this

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<sup>6</sup> ID 13 and 14

relationship is a marked and consistent feature throughout the CA. While there is clear variation in and a transition between the vernacular cottages and the later residential buildings, the definition of the original settlements is retained as is the rural character, which pervades even where terraced cottages create greater levels of enclosure.

30. I concur with the findings of all main parties that there would be no direct effects on the listed buildings, and I have carefully considered whether either appeal would result in alteration to their settings so as to materially affect their historic or architectural significance. I am satisfied that neither appeal proposal would lead to harm to the setting of the Toll House, No 3 Lidgett or Heyroyd House. Standroyd would have a much closer relationship although it is enclosed by mature vegetation and some views towards Site A would be possible in winter, while the listed curtilage building of Standroyd Barn stands in a more open position and would be visually connected with the appeal sites, albeit separated by Skipton Old Road.
31. Nonetheless, the barn has had a significant degree of change following its recent conversion to residential use, and the key relationship between Standroyd and its agricultural setting is to the rear over the Lidgett Triangle. I consider that the significance of the listed building itself would not be harmed by either proposal, but there would be some alteration to the setting of the barn. These listed buildings are a key part of the historic development of the CA and contribute to the significance of the area. They present a concise summary of the historic and social development of the area, from the imposing, prominent Heyroyd set on the high point of the CA to the small, self contained weaver's cottages in Bents. This social history is clearly read into the existing buildings and their relationship with the surrounding agricultural land and forms an important part of the CA's significance.
32. In relation to the key transition between agriculture and industry this is most strongly represented in the vicinity of the appeal site with the cottages on Skipton Old Road and on Bents. The Lidgett triangle provides a key contextual element, but their relationship with the northern fields, appreciated in views from the central footpath, that linking to Skipton Old Road between Standroyd and its associated barn and in particular the footpaths heading up and through the appeal sites, is of importance also. Although Skipton Old Road is lower than the surrounding fields, the view towards appeal Site B in particular is an important one in terms of this agricultural relationship, albeit that it does not take in the full expanse of the appeal site.
33. This full expanse is appreciated in views from outside the CA. Longer distance views from Mire Ridge in particular, clearly show the progression of development eastward towards the CA, but also the integrity of the original settlements and the intervening and surrounding elements of farmland that is currently retained. Furthermore approaching or leaving the CA along the footpaths crossing and adjacent to the two appeal sites, presents one of the most immediate experiences of these key interrelationships. Coming off the fields, where despite the ever present elements of townscape to the west, the expansive views to north and south of moorland and the presence of grazing animals establish an agricultural character, reinforced by views to Standroyd barn, over the Lidgett triangle and, as you descend towards Skipton Old Road, of the vernacular buildings and turnpike that defined the growth of handloom weaving here.

34. Such key views are fundamental to the experience of the CA, and the Council's own planning guidance on this<sup>7</sup>, indicates that they should be identified. The Character Appraisal does identify some views, and despite some debate at the Inquiry, the absence of explicit references to views towards the appeal site cannot be read as indicative that they are not important to the understanding of the significance of the asset, especially as the Appraisal predated the guidance.
35. Consequently not only do the appeal sites form part of the CA itself, they also contribute to its setting, experienced in the longer views, from the footpaths, in views up and out of Skipton Old Road and in part from properties and the central footpath within the Lidgett triangle.
36. Within this context I need to consider the principle of the introduction of housing on the sites, accepting that the CA as a whole, while exhibiting in some parts integrity in its historic form and function, has continued to evolve in its later phase as a residential area with a number of modern infills.
37. Appeal A, for up to 90 houses, is not crossed by the footpaths and would encompass an area that lies within the settlement boundary, albeit identified as a Site of Settlement Character. Enclosure to the south and west, and a close relationship with the more modern development to Favordale Road and particularly Windermere Avenue and surrounding estate, establishes a somewhat more urban character than found over the larger part of the appeal sites.
38. The impact on the experience from the footpaths would be limited somewhat by this relationship, as would the perception of encroachment to the discrete settlement pattern appreciated in the longer views of the site. Set behind the Lidgett cottages, while there would be some loss of direct connection to agricultural land for these, the relative enclosure limits the visual impact of development here. Despite this, the introduction of modern housing, irrespective of the quality of future design or layout, would result in the loss of the direct interrelationship between cottage and fields and some erosion of the experience of the rural setting of the original settlements developed during that important transitional period; it would be harmful to both the CA and its setting. In considering the CA as whole this harm would be less than substantial, and indeed, were particular care to be taken in the interface with the CA boundary, at the lower end of that scale.
39. Appeal B would result in up to 270 houses across both Site A and the larger site extending up to Castle Road. This would encompass both footpaths and notwithstanding the potential for future landscaping, would inescapably alter the experience of those leaving or arriving at the CA along these routes. To longer distance views the definition between Lidgett and Bents would be eroded, and the experiences of those within the CA, where views of the development would be achieved, would be of increased enclosure and a lost connection to an important element of the agricultural setting.
40. I note the appellant argues that historically there was a reservoir, which would have taken up a somewhat similar position to that part of the proposed housing nearest Skipton Old Road, and may have presented similar intrusion, with the Pump House the only element now readily perceived. I accept that the Pump

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<sup>7</sup> Conservation Area Design and Development Guidance Supplementary Planning Document (2008)



House, despite its later construction in relation to the key buildings from which the CA derives its significance, is nonetheless of a scale and quality of design that contributes to the evolution of the area and could be considered a non-designated heritage asset. Its improvement, as offered by the appellant during the appeal process would be positive, but I give little weight to the previous existence of the reservoir and its raised embankments. It was there, constructed at a time when the value of the area may not have been fully understood or articulated. It was removed prior to such understanding leading to the designation of the CA, and cannot be used as any sort of justification for the proposal before me.

41. In considering the CA as whole, the harm associated with Appeal B would still be less than substantial. However, while I note that there is clear evidence in the Planit document that the appellant's intention is to seek a high quality interface, this would not override my particular concerns regarding the effect on the setting and on that part of the CA specifically identified to support the principle of the special interest of the CA.
42. Although I have found less than substantial harm in relation to both appeals, that arising from Appeal B would be of greater magnitude. It is clear from paragraph 132 of the Framework, that while harm may be considered less than substantial it must still attract great weight, and gives rise to a strong presumption against the grant of planning permission. Thus the harm from both schemes would represent conflict with Policy ENV1, where it seeks conservation of heritage assets within the Borough, and specifically identifies the preindustrial farming heritage and the development of the textile industry, including weaver's cottages. However, the policy cross references the relevant paragraph in the Framework, paragraph 134, that identifies that where the harm is less than substantial it should be weighed against the public benefits of the schemes. Were such benefits to outweigh the harm from the schemes, this would then clearly resolve the respective conflict with Policy ENV1.

#### *Public Benefits*

43. The public benefits of the appeal proposals as set out by the appellant apply to both appeals, albeit in magnitude defined by their different scales.
44. Central to these was the provision of new housing in the Borough. While I note the view of the local Member of Parliament that there is no housing shortage in Pendle and that empty homes and outstanding planning permissions for housing would more than meet the need, a somewhat contradictory position is put forward in the relatively recent Core Strategy and in the agreed position on this matter between the appellant and the Council.
45. It is clear to me that the MP has painted a picture of a Council that does not in principle refuse housing schemes, even those on greenfield sites and one that is actively seeking to maximise opportunities on brownfield sites, but equally the Council themselves accept that they are currently unable to demonstrate a five year HLS. The Housing SoCG confirms an agreed position that although the Council had a demonstrable HLS in December 2015, completions to March 2016 were below targets. Following a further review of the delivery of SHLAA sites, the resulting supply has been assessed at 4.5 years, including the contribution of the appeal sites. Thus with these removed, the Council accepted that they could only demonstrate a 4.3 year supply. The appellant suggests that the Council have taken what they consider to be an incorrect

approach to the application of a buffer to the backlog of housing and consider that this should be a 4.1 year supply.

46. No substantive evidence was put to me on this point, and I do not intend to draw any conclusions on it, but am content that there is now an agreed position of a 4.1 to 4.3 year supply, absent any contribution from the appeal sites. The appeal sites are currently included and consequently this confers potential support from Core Strategy Policy LIV1, which identifies that proposals will be supported on non-allocated sites within the Settlement Boundary, and also that, prior to adoption of the LPP2, sustainable sites outside the Settlement Boundary identified in the SHLAA as making a positive contribution to the five year HLS.
47. I further note that the Council accept that the sites are deliverable, albeit letters relating to developer interest were not entirely supported as primary evidence of this, and that they would produce further benefits against thier strategic aim to deliver larger family homes and higher value dwellings. In this context, while I note that the extent of any shortfall is a component in the assessment of benefits, these housing proposals must attract considerable weight in the appeal proposals' favour.
48. The appellant identifies that five percent (%) of the Housing in Appeal A and 7% of Appeal B would be affordable. This exceeds the target for this part of the Borough, which, due to viability issues, is 0% for development in the M65 corridor. While the Council appeared to consider that as there is no reliance on delivery from these areas, such contributions would not be significant, I note that the relevant Core Strategy Policy LIV4 identifies that affordable housing should be provided in these areas where site specific assessments indicate that it is viable, as here. There is no question over the need for affordable housing generally and I therefore afford moderate weight in favour of the proposals.
49. Economic benefits were also set out including those arising from the construction phase, both in terms of jobs and expenditure, as well as from increased revenue spending longer term from new residents. Noting the government's commitment to economic growth set out in the Framework, I gave further significant weight to these economic benefits. I address contributions to public highways, cycle routes and bus routes later, but note that in principle these generally only reflect mitigation of the need for increased provision. However, I do note the proposed additional footpath and some further weight arises from this.
50. During the appeal, the appellant raised the benefits associated with improvements to the Pump House. While I consider that it would be beneficial in visual, and consequently public terms, it would also benefit the attractiveness of future housing, as in its current state it is somewhat run down, and likely to get worse. Any weight I can give to this is therefore limited, especially as its enhancement could be carried out irrespective of delivery of any scheme here.
51. While I have received considerable levels of concern and comment from local residents regarding the biodiversity value of the site, and have no reason to doubt their sightings of rare and attractive species on the site, there is agreement with L&B and the Council that the appeal will retain habitats of value, protect ground-nesting birds, lead to eradication of invasive species and

result in some habitat creation. Moderate weight arises from this in favour of the appeal proposals.

### *Heritage Balance*

52. While the lack of a demonstrable five year HLS is noted, 4.1 to 4.3 years represents a moderate shortfall. The appeal sites would have formed part of the anticipated delivery of this supply, although their inclusion in the SHLAA cannot be considered to override or indeed replace the full assessment against local and national policy necessary, with the CA and nearby Listed Buildings identified as a constraint on the site's SHLAA proformas. Nonetheless, the public benefits identified above represent significant weight in favour of the proposals. However, in accordance with s.72 (1) of the Act and the Framework, I must set this against the need to attach considerable importance and weight on the negative side of the balance to any harm to the character or appearance of the CA, including its setting.
53. In relation to Appeal A, I conclude that with careful design and layout that harm, which I identified as at the lower end of less than substantial, would be outweighed by the benefits arising from the scheme.
54. In relation to Appeal B, the benefits can be considered to be greater due to the increased scale. However, while the site would contribute to economic and social benefits through the introduction of housing these are generic benefits. The greater level of harm to the CA identified would be specific to this place and to set aside such a permanent impact would require clear justification of the necessity of development here. While the housing would contribute in the short term, and I do not underestimate the benefits associated with supporting the Council in reaching its needs in such a period, nonetheless it was accepted in cross examination by the appellant's planning witness that the site is not necessarily required for delivery to meet requirements over the full plan period. On balance, I find that the public benefits would not outweigh the harm to the significance of the heritage asset that would result.
55. Consequently, in line with the preliminary balancing approach identified in the judgement in the *Forest of Dean*, I consider that Appeal A would accord with Core Strategy Policies ENV1 and LIV1 and the Framework in this respect, but Appeal B would not and this appeal should be dismissed. In light of my findings, I now turn to consider the other main issues as they relate to consideration of Appeal A only.

### *Character and Appearance*

56. Originally known as 'The Heath', the locals refer to the appeal sites as 'The Rough', which strikes me as an apt and affectionate name for an area which is well-used and important to them. What I must assess is whether this affection for and use of that part of The Rough covered by Appeal A elevates the site above that of unallocated land and a Site of Settlement Character, as designated in the RPLP, to that of a valued landscape, expressly referred to in paragraph 109 of the Framework. In addition, I must assess the effects in light of the Council and L&B view that the site is sufficiently characteristic of the local countryside such as to further warrant its protection, both as open countryside and in relation to the setting of Colne; the setting of the CA I have addressed above.

57. With regard to whether the site is 'valued' in accordance with paragraph 109, there is an agreement between the parties on the principles of such a determination<sup>8</sup> and consistent reference to the range of factors set out in Table 5.1 of the Guide to Landscape and Visual Impact Assessment (GLVIA)<sup>9</sup>. The appellant argues that while the development of Site A would clearly lead to a visual change, the site is not typical of the wider countryside, being enclosed by and significantly influenced by the urban fringe, with nothing distinct, distinguishing or remarkable about it to establish it as valued.
58. I have no doubt that the site is greatly appreciated by local residents, both those who overlook it and those who walk on The Rough. Their position was eloquently put by those who contributed to the Inquiry. However, my own assessment of Site A was that it represents a rather unmanaged example of the local countryside here. While this lends it a somewhat wilder character, its close relationships with housing to the south and west means this character is influenced by the urban fringe. The scenic quality is degraded by this. The Rough as a whole is perceived as open countryside in medium and longer range views, and itself has panoramic views outwards in a wide arc, including Pendle Hill, Boulsworth Hill and reported views towards the Yorkshire Dales.
59. These are taken from footpaths that do not cross the appeal site, albeit access appears to be relatively unregulated and in places the exact line of the paths was not clear. While I accept the appellant's view that public access is not formally allowed, appeal Site A has recreational and perceptual value to those using the footpaths, providing a context and a separation from the housing. It contributes to the experience, and I can understand how local residents draw the conclusion that the site offers a sense of tranquillity, albeit road noise and activity does intrude. It is the sharp contrast between the busy road corridor ending at the roundabout just to the west, and the distinctive character change to the CA along Skipton Old Road and then the elevation onto open land that lends the wider appeal sites their charm. For appeal Site A this experience is limited by the lack of access and the contribution is significantly less than that of the much appreciated wider site. Overall it contains limited distinguishing features from other edge of town open areas. In this context, I consider it not to be a 'valued' landscape.
60. Such a conclusion does not imply that the site has no value, but is an interpretation which, in absence of a definition of 'valued landscape' in the Framework, responds to the judgement in the High Court in the *Stroud* case<sup>10</sup>, which confirmed that, while valued is not the same as designated, the popularity of a site is not necessarily sufficient to identify it as valued.
61. It is reasonable to presume that the contrasting characters of appeal Sites A and B may have contributed to the earlier identification of Site A within the settlement boundary. As a Site of Settlement Character, it is protected under saved Policy 12 of the RPLP, and I turn now to the effects of the proposed housing, both landscape and visual, and address whether, in the circumstances now, such protection should be maintained.
62. A Landscape and Visual Impact Assessment was carried out, along with a later addendum, to support the applications. Although some elements of this were

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<sup>8</sup> ID28

<sup>9</sup> Landscape Institute and Institute of Environmental Management and Assessment – Third edition 2013

<sup>10</sup> *Stroud v SSDCLG* [2015] EWHC 488 Admin

criticised by the Council, including the approach to photography, they were generally accepting of the approach and the range of viewpoints considered, albeit identifying a further view from the Lidgett triangle. L&B also raised further viewpoints, particularly the Cricket Ground and a viewpoint at Reeds Row. Notwithstanding this, there were significantly contrasting views between the appellant and the objecting parties in terms of the overall landscape and visual impacts.

63. In landscape terms the site lies within Landscape Character Area (LCA) 14b – Rolling Upland Farmland<sup>11</sup>, described as a soft landscape of rolling fields and a patchwork of improved pastures and stone walls, with limestone outcrops and scattered farmsteads. I have described the site as a somewhat unmanaged version of this. Across the combined appeal sites, walls and hedges are degraded and field definitions eroded. The pasture lacks the level of improvement of nearby fields. Nonetheless, Site A marks a clear transition from urban fringe to an open agricultural landscape rising out of the valley, steeply at first, then more gently to the north.
64. I can understand the argument made by L&B that there are some moorland features to the combined site. There is wildness in the informality of the boundaries and presence of scrub and rushes. However, the ever present urban edge, including views into the wider Colne town area, restricts this to an extent.
65. The Landscape Strategy identifies certain Key Environmental Features (KEF) for each LCA, noting that these should be a prompt to extreme caution regarding development. In the case of Site A, there is limited correlation to the KEFs set out. Overall, I consider that there is moderate significance to the landscape here, and moderate adverse impacts would arise from the proposed development. I note the appellant considers that such effects would be mitigated by sensitive development and landscaping; my own view is that the effect may be lessened over time, but ultimately this represents the loss of open land.
66. Visually there would be immediate and adverse impacts, particularly in the short term, to those neighbouring residents overlooking the site, while to footpath users the urban edge would be brought closer, diminishing the character of the combined site, reducing but not eradicating some of the features that locals find so special. I note that the scheme seeks to provide an additional footpath and buffer strips along the adjacent footpath route to enhance the experience of those using them, but such approaches can only reduce the presence of a large number of houses. There would be visual harm to local views, and a loss of views outward along part of Footpath 139, adjacent to the site. Additionally, I do not underestimate the effect on and importance of the other footpath, 216, which forms part of the Winewall Circular Walk.
67. From distance, I consider that the effect of housing on Site A would, over time and as a result of its current relative containment, represent limited change reflecting a fairly logical extension of the town eastward. From the Cricket Club the effects would be limited, with the wider appeal site retaining a countryside element in that view. Similarly, from the majority of other viewpoints some

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<sup>11</sup> A Landscape Strategy for Lancashire – Lancashire County Council – 2000 (the Landscape Strategy)

change would be perceived, but within the context of an expansive view, with the significant element being the main urban area.

68. However, there would be a more marked change from the road and footpaths at Mire Ridge, where the site is perceived as a larger component of the view directly across the valley. In relation to Site A, although significant, the effect would be limited by the existing containment of the site, and with suitable landscaping proposals to soften the impact over time, should be perceived as a continuation of the urban fringe. Any contribution to coalescence of the larger urban area to the smaller settlements of the CA would also be limited.
69. In conclusion, the site is relatively well contained. I accept that the outlook of the properties surrounding the site would change significantly, as would the outlook from the school and particularly from the footpaths crossing the wider area.
70. However, this would be a development on the urban fringe. There is a closer relationship to housing in this part of the wider site that sets it apart from the agricultural land and open countryside to the north and west. In terms of the setting of the town, I consider that this development would not materially affect its character and would be reflective of previous extensions, yet sufficiently contained so as not to lead to effective coalescence and the loss of definition of the smaller settlements of the CA. Nonetheless, the change to the site itself and hence the character of this part of the open countryside, would be significant.
71. Overall, while I accept that this would represent an extension of the existing urban area and from key public views would be seen in the context of existing housing, I consider that there would be some harm to the character and appearance of the area. The Framework recognises the intrinsic character and beauty of the countryside and the proposal would be contrary to those parts of Core Strategy Policy ENV1 that seek to protect the countryside in the context of the Landscape Strategy, and which seeks, wherever possible, to conserve or enhance the landscape character of the area. Furthermore, RPLP Policy 12 was adopted seeking to specifically protect areas, including the appeal site, identified as being Sites of Settlement Character, although not reflected in the Core Strategy, and identified as being under review as part of the development of the LPP2, this policy remains part of the development plan.
72. In light of the agreed position regarding the five year HLS, such policy conflict must be considered against the benefits of the scheme, and I address this in my planning balance below.

### *Highways*

73. Although not pursued by the council, L&B highlight their principal concerns with both appeals in relation to their accessibility, effect on highway capacity and road safety.
74. In terms of accessibility, while I note the argument in relation to relative distances to facilities and services, Site A would not be untypical of edge of town developments. Appeal A would result, subject to secured enhancements and contributions, in accessible pedestrian routes initially to limited shopping facilities, but also to educational and recreational opportunities. The site's location in proximity to an acknowledged sustainable settlement at Colne

means that even transport using less sustainable modes, such as the private car, would be reduced. A Travel Plan with associated contributions is proposed to support the development and reduce travel.

75. While public transport options are somewhat limited, there is a current bus service and contributions are agreed with the Highway Authority to support this. L&B argue that this service has been reduced since the time of the Highway Authority request for funding, consequently that funding should now be considered insufficient. While I understand this argument, Appeal Site A is within reasonable walking distance of existing bus stops, and the funding proposal was the same across both schemes. The long term provision of bus services through an unrelated provider can never be guaranteed. Current cuts may result in a limitation to any service, but funding for the scheme would suggest that the service would not be lost, at least during the period of that funding.
76. On balance, I consider that the unquantifiable risk of reduced or lost bus provision would be insufficient to alter my overall conclusion that the site would be sufficiently accessible by means other than the private car, and would be well related to a settlement offering a wide range of facilities.
77. In terms of highway capacity and safety, there can be no doubt that the additional housing would introduce further vehicles onto the road network. In this case this would primarily be via Windermere Avenue and the distribution of traffic north to Castle Road or south to Byron Road and on towards Colne or the North Valley Corridor, connecting to the retail outlets there or on to the M65. My own trips along these routes did not highlight particular concerns, although it must be noted that this would be absent any school related traffic. The extent of the concerns of residents is borne out by the acceptance of capacity issues on the North Valley Corridor by the appellant, the video evidence submitted and the focus of Lancashire County Council (LCC) on this route.
78. I am satisfied that there are currently congestion issues, severe at times, through this corridor, the issue before me is whether additional traffic associated with the scheme would result in severe residual cumulative impacts or compromise the safety of users. Impacts were initially reviewed through a Traffic Assessment, with accompanying addendum, which addressed the Appeal B scheme, up to 270 houses, as a worse case scenario. The appellant's assessments were subsequently independently reviewed at the request of the Council, and were accepted as sound. However, L&B undertook to model the North Valley Corridor, and this was achieved by taking an accumulation of data from other traffic assessments through that network.
79. While a SoCG was submitted on highway matters, including agreement on some of the approaches taken and some of the assumptions, I note the considerable reservations of the appellant, in particular in relation to validating this model and the manual inputs, including the increase in saturated flows to reflect the perceived real-world situation. Nonetheless, it does provide a form of comparative evidence. A helpful summary of outputs was provided to the Inquiry along with a comparison of outputs from the highway engineers. No issues would appear to arise in relation to Appeal A in the AM peak, but an increase to the degree of saturation is modelled, with associated increases in queue lengths, at the North Valley Road/Langroyd Road junction in the PM

peak. An analysis by L&B of the total delay in vehicle hours through the network suggests an increase from this scheme of 3% in the AM peak and 7% in the PM peak period.

80. I am not satisfied that the model is necessarily robust, although it does assist in providing a quantum for the potential, and in light of some of the assumptions made, very much the worst case levels of impact on the junctions. Even on this basis, the impacts from Appeal A would be limited to one junction in the PM peak. On its face I consider that this would not represent a severe impact. The appellant also highlighted the forthcoming introduction of traffic management for the signal controls through the corridor. I am satisfied that there is a clear intention to deliver this and that it will provide some benefits. Consequently, I consider that the impacts on the road network will not be severe when considered cumulatively.
81. Turning to highway safety, I note the very real concerns of local residents that increased traffic may compound what was reported to be poor highway safety in Colne<sup>12</sup>. However, there was an agreed assessment of accidents records<sup>13</sup> and no substantive evidence to suggest that the increase in vehicles would necessarily alter this. However, L&B specifically raised concerns over the proposed revised Windermere Avenue/Venables Avenue junction. Their concerns appeared to be that there was no wider speed restrictions associated with the raised platform and crossing and that there would be risks to users approaching it and potential congestion, leading to the use of less suitable routes into and out of the site. They identified further concerns that there had been no Road Safety Audit of the scheme.
82. I noted the paired speed bumps currently present along Venables Avenue and the presence of parked cars to either side, which would naturally form some element of speed control. The proposed scheme would also be subject to full approval and review, and alterations could be made. On the evidence before me, while the priority junction and crossing may lead to occasional congestion, I can see neither highway safety nor capacity issues that may encourage the use of other routes with lower capacity.
83. In conclusion, while I accept the scheme would introduce additional vehicles, with suitable improvements and necessary contributions, junction works and travel planning, I am satisfied that there would be no material impact on the road network or on highway safety. It would accord with Core Strategy Policy ENV4, which promotes sustainable and safe travel, and the Framework in this regard.

#### *Other Matters*

84. Many issues were raised by concerned local residents during a well attended public meeting held as part of the Inquiry. Of these, concerns regarding heritage, landscape, wildlife, ecology and highway matters have been addressed in my main issues. Three other issues remain: air quality; education provision and flood risk.
85. The North Valley Corridor is an Air Quality Management Area and I have accepted that there will be additional vehicles associated with that route. However, contributions, agreed with the Council, are proposed to support the

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<sup>12</sup> IP12

<sup>13</sup> ID12



Air Quality Action Plan<sup>14</sup>. I have no reason to question the conclusions of the relevant Council officers that this would mitigate the harm, nor have I any substantial evidence challenging the Air Quality Assessment as submitted by the appellant.

86. During the course of the application and appeal submission it does not appear that the matter of capacity in relation to local schools was raised, nor was any evidence demonstrating the level of this or the expected additional pressure that may result from the development submitted. While I am aware that this may now be of some concern, at this stage of the process it would be procedurally unfair to allow retrospective requests and I note that the LCC team have acknowledged this, confirming also that such a contribution could not be guaranteed to be successfully shown as being necessary. In absence of this evidence I have no recourse but to conclude that contributions towards education provision are not needed.
87. Turning to flood risk, residents, particularly associated with the Lidgett cottages and the culvert leading from there, were concerned that development on The Rough would exacerbate flooding problems and culvert failures. Although not within a flood plain, the scheme was properly supported by a flood risk assessment (FRA), which addressed the risk of surface water on and from the site. Subject to a subsequent addendum and amendments, this FRA was accepted by the Environment Agency and the LCC Flood Risk Management team as properly addressing the potential run off from the site. The proposal would be to intercept surface water run off from the site, including all hard surfaces, so that it is managed in drainage infrastructure on the site, limiting any release to the equivalent of the greenfield run off rate. In relation to surface water issues to the rear of Lidgett Cottages, the FRA includes proposals to provide interception and diversion of flows from here to the watercourse.
88. Such approaches must be properly designed and implemented, including their long term maintenance, and this can be secured by condition. However, if done so, such sustainable drainage systems (SuDS), can produce good results and on occasions even improve the management of surface flows from a site. Calculations submitted as part of the FRA addendum identify that the inclusion of flow control in conjunction with other features will reduce flows to the culvert in storm events<sup>15</sup>.
89. I am very conscious of the real concerns past flooding causes, and note the significant issues that failure of the culvert has and could cause to the nursery. However, I have no evidence before me that suggests that surface water flow from the site cannot be properly managed. I note also that foul water flows have been accepted in principle by the sewerage company operating in this area.

### *S106 Undertaking*

90. The appellant has submitted a S106 Unilateral Undertaking. I have considered this in light of the Framework, paragraph 204, and the statutory tests introduced by Regulation 122 and 123 of The Community Infrastructure Levy (CIL) Regulations, 2010. This undertaking seeks to secure matters relating to affordable housing, a management plan for open space and ecology and

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<sup>14</sup> ID34

<sup>15</sup> ID35

contributions to a range of facilities. These include air quality, bus services, cycle infrastructure, travel plan and mitigation works to the North Valley route. Also included is a commitment to the Pump House refurbishment scheme.

91. The S106 undertaking is a material consideration. I have been provided with evidence supporting the necessity and reasonableness of the contributions to air quality, cycle infrastructure and the travel plan and I am satisfied that these, and provisions relating to affordable housing, meet the three tests set out in the Regulations. Although there was some question over the inclusion of the bus services contribution in relation to Appeal A only, it has been retained in the undertaking. I consider that it represents a necessary commitment to make the site accessible, and I have no specific evidence that the necessary contribution is not related in scale and kind to Appeal A. Provision of the infrastructure to support a bus service clearly includes similar costs whether serving the smaller or larger schemes.
92. Accordingly for these contributions, I find that they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. Each may be justified by reference to the objectives of the relevant parts of the development plan, and I have given these parts of the undertaking weight in my consideration of this case.
93. The restoration of the Pump House has not been specifically sought, nor does it result from harm arising from the development itself. While clearly welcomed, I cannot take this part of the undertaking into account in my consideration of the scheme. Finally the North Valley Mitigation proposals, including a pedestrian crossing update and road marking changes, are neither claimed by the appellant to be, nor directly supported by the Council as being necessary. They arise from a request from LCC to improve traffic flow along the North Valley Corridor. It is not clear to me that the need for these works is driven by increases in vehicular use of the road network directly associated with the scheme. In absence of firm evidence that the contribution would mitigate harm arising directly from the scheme, I also cannot take this part of the undertaking into account in my consideration of the scheme.

### **The Overall Planning Balance**

94. The Framework explains, at paragraph 12, that its existence does not change the statutory status of the development plan as the starting point for decision making. This means that a determination must be made in accordance with the development plan unless material considerations indicate otherwise. I have addressed the required balance in relation to the protection of heritage assets and found that Appeal B should be dismissed. In the case of Appeal A, I have found that, with sensitive design and layout, which can be secured by the Council at the reserved matters stage, the public benefits of the scheme, would outweigh the limited less than substantial harm I have identified to the heritage assets, in particular the CA.
95. In light of this I have gone on to consider Appeal A against further policies of the development plan and the presumption in favour of sustainable development. For decision taking, this means that where relevant policies of the development plan are out-of-date any adverse impacts of the development would need to significantly and demonstrably outweigh the benefits when

assessed against the Framework as a whole. I consider the relevant housing supply policies to be out-of-date.

96. The Framework sets out three elements of sustainable development. I consider that the proposal would meet the economic role and the social role, particularly in relation to the provision of a wider choice of housing. The Council accept that it represents a sustainable location, and I concur that it is relatively accessible and close to the wider facilities of Colne.
97. In terms of the environmental role, I have set out above that I consider the proposal would harm the character of the open countryside and have some impact on the appearance of the area. In this case conflict arises in relation to Core Strategy Policy ENV1. While there is also conflict with RPLP Policy 12, this can be considered a relevant policy for the supply of housing. Furthermore, it is under review. I have been provided with the recommendations of the Local Plan Inspector in relation to this policy and the designation of Sites of Settlement Character. I note in this the acknowledgment of the appreciation of local residents for the site and the view that it contributes to the visual amenity of the surrounding residential development. However, the recommendation for retention of the site is clearly on the basis of, and understanding that, its inclusion within the Settlement Boundary was to provide flexibility for further housing that, at the time of the adoption of the RPLP was not required. In light of its upcoming review, and the housing supply situation now, this significantly reduces the weight that I can give to Policy 12.
98. Of greater weight, in my view, are the benefits that the proposed development would have, which include, in particular, the significant contribution to addressing the shortfall in the Council's housing supply. The development is deliverable and could help to meet this shortfall in the short term. Furthermore, I am satisfied that there would be no significant impacts on highway safety from the proposal.
99. Accordingly, I consider this to be sustainable development, which, when considered against the test of paragraph 14 of the Framework, has clear benefits, which are not significantly and demonstrably outweighed by the harm I have identified. Although there is some conflict with specific policies in the development plan, the overall balance of material considerations weigh in favour of granting planning permission. Taking Core Strategy Policies SDP1 and LIV1 into account, Appeal A can be considered as sustainable development which accords with the development plan as a whole.

### **Conditions**

100. I have considered the conditions as agreed between the parties, against the requirements of the Planning Practice Guidance. I have applied standard outline conditions (1, 2) and to ensure proper delivery of the scheme, a plan for phasing (3).
101. To address the potential for contamination on the site, including that associated with the infilled reservoir, I have required investigation and remediation measures (4). I have imposed a condition to address flood risk and drainage management through a drainage strategy (5), and consider it necessary to require archaeological assessment of the site (6). To protect the living conditions of nearby residents, I have required the submission of a Construction Method Statement (7), and restricted the hours of operation (15).

102. To address the protection and mitigation of biodiversity and to protect the character and appearance of the area, I have imposed conditions relating to tree protection (8), ecological mitigation, roosting bats and bird nesting (9, 12), landscape creation and management (10, 11, 13, 14) and submission of a lighting design strategy (16). To promote accessibility and address highway safety I have required delivery of agreed off site highway works (17). Finally I have imposed a condition specifying the relevant plans as this provides certainty (18). Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the Planning Practice Guidance.
103. It is essential that the requirements of conditions 3 to 11 are agreed prior to development commencing to ensure an acceptable form of development in respect of phasing, contamination, drainage, construction methods, archaeology, ecological and habitat enhancement and protection.

### **Conclusion**

104. For the reasons given above and having regard to all other matter raised, I conclude that the Appeal A should be allowed and Appeal B dismissed.

*Mike Robins*

INSPECTOR

## **SCHEDULE OF CONDITIONS FOR APPEAL A**

- 1) An application for approval of the reserved matters (namely the appearance, layout, scale and landscaping of the site) shall be submitted in writing to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted must be begun two years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the 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.
- 3) Prior to commencement of development, a plan and written-brief detailing the proposed phasing of the site shall have been submitted to and approved in writing by the local planning authority. Such detailing shall include details of the works involved in each phase and how each phase is to be completed in terms of the completion of roads, including access to the first site compound in accordance with Lancashire County Council specification to at least base course level, building operations, foul and surface water sewers and landscaping. The approved scheme shall thereafter be carried out in accordance with the plan and brief.
- 4) Prior to the commencement of development the applicant shall have submitted to and have agreed in writing by the Local Planning Authority a method statement which sets out in detail the method, standards and timing for the investigation and subsequent remediation of any contamination which may be present on site. The method statement shall detail how:-
  - i) an investigation and assessment to identify the types, nature and extent of land contamination affecting the application site together with the risks to receptors and potential for migration within and beyond the site will be carried out by an appropriately qualified geotechnical professional (in accordance with a methodology for investigations and assessments which shall comply with BS 10175:2001) will be carried out and the method of reporting this to the Local Planning Authority; and
  - ii) a comprehensive remediation scheme which shall include an implementation timetable, details of future monitoring and a verification methodology (which shall include a sampling and analysis programme to confirm the adequacy of land decontamination) will be submitted to and approved in writing by the Local Planning Authority.

All agreed remediation measures shall thereafter be carried out in accordance with the approved implementation timetable under the supervision of a geotechnical professional and shall be completed in full accordance with the agreed measures and timings.

In addition, prior to commencing construction of any building, the developer shall first submit to and obtain written approval from the Local Planning Authority a report to confirm that all the agreed remediation measures have been carried out fully in accordance with the agreed details, providing results of the verification programme of post-

- remediation sampling and monitoring and including future monitoring proposals for the site.
- 5) Notwithstanding any indication on the approved plans, prior to commencement of development a scheme for the disposal of foul and surface waters for the appeal site shall be submitted to and approved in writing by the local planning authority. The surface water drainage scheme for the site shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development and should demonstrate the surface water run-off will not exceed 155 l/s. Surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The drainage shall be provided in accordance with the approved details before the development is completed, and maintained and managed thereafter in strict accordance with measures agreed as part of the scheme.
  - 6) Prior to the commencement of development the implementation of a programme of archaeological works shall be secured in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted to and approved in writing by the local planning authority. The works shall be undertaken in accordance with the approved details. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.
  - 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been 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) loading and reloading of plants and materials;
    - iii) storage of plant and materials used in constructing the development;
    - iv) the erection and maintenance of security hoarding and fencing;
    - v) wheel washing facilities;
    - vi) measures to control the emission of noise, dust and dirt during construction;
    - vii) a scheme for recycling/disposing of waste resulting from construction works; and
    - viii) location and details of site compounds.
  - 8) Prior to the commencement of development full details of tree protection measures for any trees and hedgerows to be retained shall be submitted to the Local Planning Authority and approved in writing. The tree protection measures shall be implemented prior to the commencement of development and retained throughout the course of development until completion.
  - 9) Prior to the commencement of development detailed proposals for the incorporation of features into the scheme including all recommended

mitigation and ecological enhancement measures and those suitable for use by breeding birds and roosting bats, as detailed in Sections 5.4 and 5.6 of the 'Ecological Survey and Assessment' report prepared by ERAP Ltd (Consultant Ecologists) (October 2014), the Addendum Report on Great Crested Newts ref: 2014\_263c and the Hedgerow and Ecological Addendum 2015 shall be submitted to and agreed in writing with the local planning authority. The agreed measures shall be permanently installed in accordance with approved details prior to the first occupation of the development hereby approved and retained thereafter.

No building shall be occupied until a detailed Habitat Protection, Creation, Enhancement and Landscaping Plan has been submitted to and approved in writing by the Local Planning Authority.

The Plan shall: -

- i) Identify the areas of vegetation to be retained and protected throughout the construction phase;
- ii) The location, species and number of all proposed trees, shrubs and hedges;
- iii) The location of all existing and proposed grassed and hard surfaced areas;
- iv) The location and specification for all areas of new wildflower grassland and wetland habitats;
- v) Demonstrate the retention and creation of green links and habitat connectivity across the site;
- vi) Detail the measures to be applied to replant Hedgerow 1 (along Castle Road), as detailed in the Addendum: Hedgerow and Ecological Guidance, ERAP Ltd (Consultant Ecologists) (March 2015);
- vii) Landscape planting schedules and specifications for the residential plots.

Trees and shrubs planted shall comply with BS.3936 (Specification of Nursery Stock) and shall be planted in accordance with BS.4428 (General Landscape Operations).

- 10) Prior to commencement of development a Landscape and Habitat Creation Management Plan, in accordance with Section 5.8 of the 'Ecological Survey and Assessment' report prepared by ERAP Ltd (Consultant Ecologists) (October 2014) and the Hedgerow and Ecological Addendum 2015, shall be submitted to and approved in writing by the local planning authority.

The Plan will cover ten years, and include long-term design objectives, management responsibilities and maintenance schedules for the following: -

- i) Existing and retained hedgerows, trees and wooded slopes;
- ii) New areas of woodland and the retained wooded copse;
- iii) New hedgerows and areas of supplementary and landscape planting;
- iv) The early delivery of structural elements of landscaping, including perimeter boundary treatments;
- v) Bird boxes;
- vi) Areas of public open space;

- vii) Retained, created and translocated (if relevant) areas of wildflower grassland and wetland; and,
- viii) Estate fabric e.g. footpaths, fences and signs.

The agreed Plan shall be implemented in full, in accordance with the timescales indicated in the approved scheme.

- 11) Prior to commencement of development a Management Plan providing full details for all of the non-adopted areas of the site, to include the timing of, provision, and a schedule of maintenance, shall be submitted to and agreed in writing by the local planning authority. The scheme shall include:
- i) A description of all areas and features to be managed;
  - ii) The aims and objectives of the Management Plan;
  - iii) The management actions, including monitoring;
  - iv) The means by which the plan will be rolled forward annually;
  - v) Monitoring and remedial / contingency measures triggered by monitoring;
  - vi) Details of the personnel responsible for implementation of the plan and the means by which it will be funded.
  - vii) The mechanism to be employed to ensure the areas are managed in perpetuity.

The maintenance of the non-adopted areas shall at all times thereafter be undertaken in accordance with the approved scheme.

- 12) Tree felling, vegetation clearance works (including grassland clearance) or other works that may affect nesting birds, including ground-nesting birds, shall not be undertaken between the months of March to August inclusive unless the absence of nesting birds has been confirmed by further survey or inspections. Such surveys shall be carried out by a suitably qualified and experienced ecologist. If nesting birds (or dependant young) are found to be present, works in the area shall be delayed until such time as nesting is complete and the young have fledged. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority.
- 13) Prior to any earthworks an Invasive Species Management Plan detailing eradication and/or control and/or avoidance measures for Himalayan Balsam and Japanese Knotweed shall be submitted to and agreed in writing to the local planning authority. The agreed Plan shall be adhered to and implemented in full.
- 14) A scheme for the management (including maintenance) of the open space areas, shall be submitted for approval to the local planning authority within twelve weeks of the commencement of development. The approved scheme for open space areas shall be carried out in full accordance with the agreed scheme before the first dwelling is occupied. Subsequent management and maintenance of the open space areas shall be carried out in accordance with the approved scheme.
- 15) Demolition or construction works shall not take place outside the hours of 8:00 and 18:00 on weekdays and 8:00 - 13:00 on Saturdays, nor at any time on Sundays, Bank or Public Holidays.



- 16) Prior to occupation a 'lighting design strategy' for the development shall be submitted to and approved in writing by the local planning authority. The strategy shall be in accordance with guidance detailed in Section 5.7 of the 'Ecological Survey and Assessment' report prepared by ERAP Ltd (Consultant Ecologists) (October 2014).
- 17) No dwelling shall be occupied unless and until the off-site highway works shown in the following plans have been constructed in accordance with those plans and any phasing information provided: 3344 Venables Mitigation Fig 4 Rev A, 3344 Puffin Crossing Fig 3, 3344 Castle Road Fig 2 Rev C (with no access shown) and 3344 bus stops fig 5 (only those shown on Venables Avenue).
- 18) The development hereby permitted shall be carried out in accordance with the following approved plans: 754.000A, 754.400A Rev 1, 3344 Skipton Old Road dated 10/02/2015, 3344 Windermere Ave Access dated 28/10/2014.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

David Hardy LL.B (Hons), B.C.L.(Hons) Oxon	Partner, Squire, Patton and Boggs Instructed Pendle Borough Council
He called	
Tom Charrier BA(Hons) CMLI	Principal Landscape Architect, Stephenson Halliday
Clara Turlington BA MSc	Senior Heritage Consultant, AECOM
Kathryn Hughes MSc MRTPI	Principal Development Manager Officer, Pendle Borough Council

### FOR THE APPELLANT:

Paul G Tucker QC	Instructed by Daniel Mitchell, Barton Wilmore LLP
He called	
Susan Dodwell MA BSc(Hons) CMLI	Landscape Consultant, Director, Woolerton Dodwell Associates Ltd
Peter de Figueiredo DipArch MA(Urban Design) RIBA IHBC	Heritage Consultant
Alan Davies MSc CMILT MCIHT MAPM	Highways Consultant, Director DTPC (Northwest) Ltd
Daniel Mitchell BA(Hons) DipTP MRTPI	Planning consultant, Partner, Barton Wilmore LLP

### FOR LIDGETT AND BEYOND:

Freddie Humphreys of Counsel	Instructed Michael Wellock, Kirkwells
He called	
Peter Radmall MA B.Phil CMLI	Landscape Consultant
Naomi Field BA(Hons) MCIfA	Senior Heritage Consultant, Prospect Archaeology
John Lowe C.Eng MICE MSc BSc	Highways Consultant, Partner, Turner Lowe Associates
Michael Wellock MSc DipTP DMS MRTPI	Planning consultant, Managing Director, Kikwells

INTERESTED PERSONS:

Andrew Stephenson	Member of Parliament
Jonathan Nixon	Horsfield Ward and Borough Councillor
Geoff Crambie	Local Historian
David Cockburn-Price	Chairman of Trustees - Lidgett and Beyond Charity
Mark Chung	Local Resident
Mark Rogers	Local Resident
Ella Rogers	Local Resident
Christopher Richards	Local Resident
Barry Birtwistle	Local Resident and former secretary of the Lidgett Preservation group
Elizabeth Lane	Local Resident
Michael Hartley	Local Resident
Owen Oliver	Local Resident
Jerry Stanford	Local Resident
Mark Turner	Local Resident
Kevin Hey	Local Resident
John Birchenough	Local Resident
Paul White	Borough and County Councillor
Joe Cooney	Town and Borough Councillor
Jane pike	Local Resident
John Kendall	Local Resident

## Core Documents

<b>1 Adopted development plan</b>		
PBC	1.1	Adopted Pendle Core Strategy December 2015
PBC	1.2	Adopted Pendle Replacement Local Plan
PBC	1.3	Inspector's EIP Report for Pendle Local Plan Core Strategy 2015
<b>2 Legislation and national planning policy</b>		
PBC	2.1	DCLG: National Planning Policy Framework (March 2012)
PBC	2.2	National Planning Practice Guidance (online resource) (Extracts)
PBC	2.3	Planning (Listed Buildings and Conservation Areas) Act 1990
<b>3 Other Pendle Borough Council documents</b>		
PBC	3.1	Conservation Area and Development Guidance SPD 2008
PBC	3.2	Lidgett and Bents Conservation Character Appraisal 1999
PBC	3.3	Pendle Council Annual Monitoring Report and Appendices (December 2015)
<b>4 Landscape</b>		
PBC	4.1	A Landscape Strategy for Lancashire 2000
PBC	4.2	National Character Area 36: Southern Pennines (Natural England, 2014)
PBC	4.3	National Character Area 35: Lancashire Valleys (Natural England, 2013)
PBC	4.4	Guidelines for Landscape and Visual Assessment, Third Edition (Landscape Institute and Institute of Environmental Management & Assessment, 2013)
PBC	4.5	Landscape Character Assessment: Guidance for England and Scotland (The Countryside Agency & Scottish Natural Heritage, 2002)
PBC	4.6	Photography and Photomontage in Landscape and Visual Impact Assessment, Landscape Institute Advice Note 01/11
<b>5 Cultural heritage</b>		
PBC	5.1	Historic Environment Good Practice Advice in Planning 2 (GPA 2): Managing Significance in Decision-Taking in the Historic Environment (Historic England, 2015)
PBC	5.2	Historic Environment Good Practice Advice in Planning Note 3 (GPA 3): The Setting of Heritage Assets (Historic England, 2015)
PBC	5.3	Historic Environment Advice Note 1 (HEAN 1): Conservation Areas: Designation, Appraisal and Review (Historic England, 2016)

PBC	5.4	Historic Environment Advice Note 2 (HEAN 2): Making Changes to Heritage Assets (Historic England, 2016)
<b>6 Appeal and High Court decisions</b>		
PBC	6.1	Suffolk Coastal DC v (1) Hopkins Homes Limited (2) Secretary of State for Communities and Local Government/Richborough Estates Partnership LLP v (1) Cheshire East Borough Council (2) Secretary of State for Communities and Local Government [2016] EWCA Civ 168
PBC	6.2	Forest of Dean DC v (1) Secretary of State for Communities and Local Government (2) Gladman Developments Limited [2016] EWHC 421
<b>7 Planning Application and Appeal Documents</b>		
PBC	7.1	Planning Application and Supporting Documents (90 unit) (available electronically)
PBC	7.2	Planning Application and Supporting Documents (270 unit) (available electronically)
PBC	7.3	Officer report to committee (90 unit)
PBC	7.4	Officer report to committee (270 unit_
PBC	7.5	Appellant's Statement of Case
PBC	7.6	Council's Statement of Case
PBC	7.7	Action Group Statement of Case
PBC	7.8	Statement of Common Ground
<b>8 Highways</b>		
APP	8.1	Manual for Street/Manual for Streets 2
APP	8.2	CIHT Guidance Cycle Friendly Infrastructure
APP	8.3	CIHT Guidance Journeys on Foot
APP	8.4	CIHT Guidance for Planning for Public Transport in Developments
<b>9 Other documents</b>		
Rule 6	9.1	Building for Life 12

### **Inquiry Documents**

ID1	Council's letters of notification
ID2	Opening for the appellant
ID3	Opening for the Lidgett and Beyond
ID4	Opening for the Council
ID5	Expanded view of aerial photo
ID6	Statement of Common Ground - Ecology
ID7	Winewall Circular Walk Lefalet
ID8	Statement of Common Ground - Highways
ID9	Statement of Common Ground - Amendment
ID10	Statement of Common Ground - Housing Supply
ID11	E-mail, Planit re finalised version
ID12	Statement of Technical Matters - Highways
ID13	1999 Report on adoption of the Conservation Area
ID14	Officer's report to committee re adoption of Conservation Area
ID15	Draft Unilateral Undertaking - Appeal A
ID16	Draft Unilateral Undertaking - Appeal B
ID17	Plan - Castle Road - Appeal A
ID18	Plan - Venables Road Priority Junction
ID19	Junction model outputs and comparisons
ID20	Table JL1 - junction model outputs
ID21	L&B Summary of model outputs
ID22	Revised illustrative masterplan view
ID23	Topic Paper 3 0 green Belt - Local Plan Inquiry
ID24	E-mail - LCC position on reviewing the model
ID25	Michael Wellock - PoE Summary
ID26	LP Inspector's report re Policy 12
ID27	LP Inspector's report re Policy 3
ID28	Statement of Common Ground - Landscape
ID29	L&B's suggested conditions
ID30	Planning Practice Guidance 2 - Green Belts
ID31	Letters of interest from developers
ID32	The Rough - Photobook
ID33	Response to Highway Matters raised by Mr Stanford
ID34	Air Quality Update - Miller Goodall
ID35	Flood Risk and Surface Water Update - PSA Design
ID36	Closing Statements - Lidgett and Beyond
ID37	Closing Statements - Council
ID38	Closing Statements - Appellant

### **Local Representation Documents**

IP1	Letter - Blossom Tree Childcare - Pauline McDonald
IP2	Lidgett and Beyond press release re Culvert
IP3	Letter - Anna Rodgers
IP4	Letter - Kevin McNulty
IP5	Speakers notes - Kevin Hey
IP6	Photograph - The Glade - Castle Road
IP7	Speakers notes - Andrew Stephenson
IP8	Photographs - local flooding
IP9	Commentary re video Evidence - Tracey Chung
IP10	Speakers notes - Barry Birtwistle
IP11	Speakers notes - Jonathan Nixon
IP12	Speakers notes - Jerry Stanford
IP13	Air Quality data, including conversion factors