



Department for
Communities and
Local Government

Duncan Chadwick Esq.
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50 North Thirteenth Street
Milton Keynes
MK9 3BP

Our Ref: APP/T2350/A/13/2197091

22 April 2014

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY THE BARROW LANDS COMPANY LTD
LAND TO THE SOUTH-WEST OF BARROW AND WEST OF WHALLEY ROAD,
BARROW, LANCASHIRE - APPLICATION REF: 3/2013/0099**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Phillip J G Ware BSc (Hons) DipTP MRTPI, who held an inquiry on 5 and 6 November 2013 into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the failure of Ribble Valley Borough Council to give notice within the prescribed period on an outline planning permission for the provision of up to 190 residential units (falling within Use Class C3), including affordable housing, with two new vehicular and pedestrian accesses onto Whalley Road, on-site landscaping, formal and informal open space and associated infrastructure works including a new foul water pumping station, in accordance with application ref 3/2013/0099 dated 18 January 2013.
2. The appeal was recovered for the Secretary of State's determination on 20 May 2013, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves a proposal for residential development of over 150 units on a site of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and outline planning permission granted. For the reasons given in this letter, the Secretary of State agrees with the Inspector's conclusions and recommendation. A copy of the Inspector's report (IR) is enclosed. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

Matters arising after the close of the inquiry

4. Following the close of the inquiry, on 17 March 2014 the Secretary of State wrote to the main parties to seek their views on the planning guidance which was published on 6 March 2014.
5. Responses were received from the appellant dated 19 March and from Council dated 2 April, with further comments from the Council dated 28 March and the appellant dated 31 March. The Secretary of State has taken account of these responses in his consideration of the appeal before him. As the responses were copied to the main parties, he does not consider it necessary to summarise their responses here or attach them to this letter. Copies of the correspondence can be obtained upon request to the address at the bottom of the first page of this letter.

Policy considerations

6. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan consists of the saved policies of the Ribble Valley Districtwide Local Plan 1998 (the Local Plan).
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework – March 2012); the planning guidance published in March 2014 to support the Framework; and the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).
8. The Secretary of State notes that the draft Ribble Valley Core Strategy (CS) was submitted to him for Examination in September 2013 and that the Inspector has yet to report. In these circumstances the Secretary of State attaches limited weight to CS policies in the determination of this appeal.

Main issues

The effect on the character and appearance of the area

9. For the reasons given at IR62-71, the Secretary of State agrees with the Inspector's conclusion that the development, though relatively limited in scale, will obviously have an effect on the character and appearance of the immediate area and, to that extent, there is a limited conflict with LP policy ENV3. However he also agrees that this conflict falls far short of suggesting that the development would be unacceptably harmful, and that from more than around two kilometres from the site there would be little discernable landscape impact (IR71).

Accessibility to non-car modes of transport

10. The Secretary of State agrees with the Inspector's reasoning at IR72-83 and his conclusion that, overall, the proposal would comply with Framework policy and emerging CS policy on promoting sustainable transport (IR84).

The effect on highway safety and capacity

11. For the reasons given by the Inspector at IR85-90, the Secretary of State agrees with the Inspector's conclusion that the proposal would not harm highway safety and would not conflict with LP policy or emerging CS policy. Moreover, he also agrees that in any event the policy in the Framework is that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Taking into account the mitigation measures within Whalley, along Whalley Road, and at the A671/A59 junction, the evidence is that the residual cumulative impact would be nowhere near that level (IR91).

Prematurity

12. For the reasons at IR92-102, the Secretary of State agrees with the Inspector's conclusion that the objection to the appeal scheme on the basis of prematurity cannot be sustained (IR103).

Housing land supply

13. The Secretary of State notes that both parties agree that the Council does not have a five year housing land supply, the Council's adopted housing policies are out of date, the draft CS can only be given limited weight, and that the appeal should be judged predominantly against the Framework (IR59). For the reasons at IR104-110 and in view of the agreement between the main parties on this issue, the Secretary of State considers that the lack of a five year housing land supply weighs significantly in favour of the appeal (IR111).

Railway level crossing safety

14. The Secretary of State agrees with the Inspector's assessment on the issue of level crossing safety at IR112. In reaching this view he has also taken into account his conclusions on level crossing safety in his decision letter dated 20 February 2014 on appeal APP/T2350/A/13/2190088 for up to 504 dwellings on a larger site encompassing the current appeal site.

Conditions and s.106 obligations

15. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions as set out in IR113-124 and on the S.106 Planning Obligation, as set out in IR125-126. The Secretary of State is satisfied that the conditions recommended by the Inspector and set out at Annex B attached to the IR are reasonable and necessary and meet the tests of paragraph 206 of the Framework. He is also satisfied that the Planning Obligation dated 12 November 2013 meets the policy in paragraph 204 of the Framework and all the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010, and is a material consideration in this case. In reaching this view he has noted that the obligation includes a £10,000 'footpath improvement contribution' to be made to the County Council. The Secretary of State understands this sum will be used in consultation with Network Rail for safety mitigation measures in the vicinity of the railway level crossing on the route of footpath 3-45-FP6.

Overall conclusions

16. The Secretary of State agrees with the Inspector's overall conclusions at IR127-134. The housing policies in the development plan are out of date, the proposal would provide a substantial amount of much needed market and affordable housing and the lack of a five year housing land supply weighs significantly in favour of the appeal. The development, though relatively limited in scale, will have an effect on the character and appearance of the immediate area. However the harm would be limited and acceptable. Accordingly he places limited weight on this harm. He considers that the transport impacts would be acceptable, including increased usage of railway level crossings given the risk mitigation measures proposed by the appellant. Overall, the Secretary of State concludes that the planning balance falls strongly in favour of the proposal and that it accords with the policies in the Framework including the presumption in favour of sustainable development.

Formal decision

17. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission for the provision of up to 190 residential units (falling within Use Class C3), including affordable housing, with two new vehicular and pedestrian accesses onto Whalley Road, on-site landscaping, formal and informal open space and associated infrastructure works including a new foul water pumping station, in accordance with application ref 3/2013/0099 dated 18 January 2013, subject to the conditions listed at Annex A of this letter.
18. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
19. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

20. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
21. A copy of this letter has been sent to Ribble Valley Borough Council. A notification letter or e-mail has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Julian Pitt

Authorised by the Secretary of State to sign in that behalf

General

1. No part of the development hereby permitted shall be commenced on any parcel (as referred to in Condition 5) until full details of the layout, scale and appearance of the buildings and landscaping within that parcel (hereinafter called “the reserved matters”) have been submitted to and approved in writing by the Local Planning Authority.

In relation to landscaping, the details shall include: the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, turfed, paved or hard landscaped, including details of any changes of level or landform and the types and details of all fencing and screening. The development shall not be carried out otherwise than in accordance with the approved details.

In relation to ecology, any submission of reserved matters shall incorporate the recommendations of the Ecological Survey and Assessment (January 2013) presented by David Lock Associates but based upon a survey by ERAP Limited dated May 2010/Updated May 2012.

2. Applications for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 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. No more than 190 dwellings shall be developed on the application site edged red on the submitted Application Boundary Plan (Drawing No. LBA002-006) and the vehicular and pedestrian accesses to the site shall be constructed in accordance with the details shown on the following submitted plans:

- a) Northern access point Drawing no. VN20066/200
- b) Southern access point Drawing no. VN20066/201

Each site access shall be constructed to base level prior to the first occupation of a dwelling within the parcel of the development served by the access and completed in accordance with the timetable to be approved pursuant to Condition 14 of this permission.

Phasing

5. Prior to the submission of any reserved matters application, a phasing scheme including the parcels which shall be the subject of separate reserved matters applications shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing scheme.

Landscaping and Levels

6. All landscaping schemes approved (pursuant to Condition 1 of this permission) for each parcel of development (as approved under Condition 5 of this permission) shall be fully implemented in the first complete planting and seeding season following the occupation of the dwellings within that parcel or the completion of the parcel to which they relate, whichever is the sooner. Any trees or plants which, within a period of five years from completion of the relevant development parcel die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

7. Applications for the approval of reserved matters (as required by Condition 1 of this permission) shall include details of existing and proposed site levels and the levels of the proposed roads. The development shall thereafter be carried out in accordance with the approved details.

Design

8. Applications for the approval of reserved matters (as required by Condition 1 of this permission) shall be in substantial accordance with the design principles and parameters contained in the submitted Design and Access Statement (January 2013).

9. Any dwelling to be constructed with a frontage (which for the avoidance of doubt shall include a side or rear elevation) onto the eastern boundary of the site (Whalley Road) as edged in red on the submitted Application Boundary Plan (Drawing No. LBA002-006) shall not exceed 8 metres in height (as measured from ground level to the ridge of the dwelling).

Drainage

10. Prior to the commencement of any development, a drainage strategy outlining the general system of drainage for foul and surface water flows arising from the entire site shall be submitted to and approved in writing by the Local Planning Authority. This drainage strategy shall include details of all necessary drainage infrastructure including details of all discharge points from the development and any pumping stations or other bespoke features. The drainage strategy should demonstrate that the surface water run-off generated up to and including the 1:100 year return period critical storm including climate change allowance will not exceed the run-off from the undeveloped site following the corresponding rainfall event. Thereafter the detailed schemes for foul and surface water drainage submitted as part of Conditions 11 & 12 for development within each phase (as approved by Condition No. 5) shall be submitted to and approved in writing by the Local Planning Authority in accordance with the drainage strategy approved under this condition.

11. Prior to the commencement of development within a phase (as approved pursuant to Condition 5), the details of a scheme for surface water drainage and means of disposal for that phase, based on the Drainage Strategy approved pursuant to Condition 10 of this permission, evidence of an assessment of site conditions, sustainable drainage principles, an assessment of the hydrological and hydro-geological context of the development, the Flood Risk Assessment submitted by Rutter Johnson dated January 2013 (inclusive of how the scheme shall be maintained and managed after completion and any necessary infrastructure) shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt,

no surface water shall connect into the public sewerage system, directly or indirectly, in accordance with the submitted application and Flood Risk Assessment. The scheme shall be implemented prior to completion of the first dwelling within that phase of the development and maintained and managed in accordance with the approved details at all times thereafter.

12. Prior to the commencement of development within a phase (as approved pursuant to Condition 5), details of the foul drainage scheme for that phase, which shall be based on the Drainage Strategy approved pursuant to Condition 10 of this permission and shall include any necessary infrastructure, shall be submitted to and approved in writing by the Local Planning Authority. The foul drainage scheme shall be implemented prior to completion of the first dwelling within that phase of development and maintained and managed in accordance with the approved details at all times thereafter.

13. Not more than 150 dwellings approved by this permission shall be occupied until the United Utilities plc capacity improvement of the Whalley Waste Water Treatment Works (WWTW) has either:

- a) been completed in full; or
- b) a scheme demonstrating that foul flows to Whalley WWTW will not be increased as a result of the development or phase of development hereby permitted before the improvement work at Whalley WWTW has been completed has been submitted to and approved in writing by the Local Planning Authority.

Any foul drainage scheme approved under b) of this Condition in advance of the capacity improvement work at Whalley WWTW being completed shall be constructed in accordance with the approved details.

Highways/Transport

14. No development approved by this permission shall commence within any phase (as approved pursuant to Condition 5) until a detailed scheme (including a timetable for implementation and completion) for the construction of the relevant site access(es) and any temporary construction arrangements including pedestrian facilities to serve that phase and the associated off-site highway improvements to directly serve that phase have been submitted to and approved in writing by the Local Planning Authority. The scheme for the off-site highway improvements shall be in accordance with the details agreed in the Statement of Common Ground for highway/transportation matters agreed between Vectos and Lancashire County Council and as set out in the S106 Planning Obligation related to this permission. The scheme shall be implemented in accordance with the approved details and timetable.

15. The new estate roads within a phase of the development (as approved pursuant to Condition 5) shall be constructed in accordance with a detailed scheme (including a timetable for implementation) which shall be submitted to and approved in writing by the Local Planning Authority before development commences within that phase. The estate roads shall be constructed to adoptable standards in accordance with the Lancashire County Council Specification for Construction of Estate Roads and the scheme shall be implemented in accordance with the approved details and timetable.

16. Prior to the occupation of the first dwelling within a phase (as approved under Condition 5) a Travel Plan based upon the submitted Travel Plan Framework to improve accessibility by sustainable modes for residents of dwellings within that phase shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include:

- a) Appointment of a named Travel Plan Co-ordinator.
- b) Details of measures to encourage sustainable travel patterns.
- c) A scheme for the management and implementation of the Travel Plan.
- d) Targets for modal shift.
- e) Implementation timescales.
- f) A strategy for marketing and proposed incentives.
- g) Arrangements for monitoring and review.

The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the approved Travel Plan for development within that phase for a period of time not less than 5 years following completion of the final parcel of development in that phase (as approved under Condition 5).

Construction

17. No development approved by this permission shall commence within a phase until a Construction Method Statement/Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved Statement/Management Plan shall incorporate the recommendations of the Acoustic Survey and Assessment (Section 5) and results of the Air Quality Assessment (Section 4) dated January 2013 produced by Martin Environmental Solutions submitted in support of the application and shall be adhered to throughout the construction period. The Statement shall provide for:

- a) The routing of heavy (HGV) construction vehicles via the A59/A671 and Whalley Road, Barrow thereby avoiding the village centre of Whalley.
- b) Parking of vehicles of site operatives and visitors within the site.
- c) Loading and unloading of plant and materials.
- d) Storage of plant and materials used in constructing the development.
- e) Erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate.
- f) Wheel washing facilities.
- g) A management plan to control the emission of dust and dirt during construction identifying suitable mitigation measures.

- h) A scheme for recycling/disposing of waste resulting from construction works. There shall be no burning on site.
- i) A scheme to control noise during the construction phase.
- j) Details of lighting to be used during the construction period which should be directional and screened wherever possible.

18. No heavy goods vehicles (exceeding a gross vehicle weight of 7.5T) shall enter or leave the site, as edged in red on the submitted Application Boundary Plan (Drawing No. LBA002-006), in connection with the construction of the development hereby permitted between the hours of 0830 and 0930, and 1500 and 1600 hours, Monday to Friday inclusive - except during school holidays.

Energy/Sustainability

19. Before development begins within any phase a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development hereby permitted within that phase from renewable or low carbon energy sources shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and retained as operational thereafter.

20. The dwellings hereby permitted shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

Biodiversity/Tree Protection

21. Tree felling/vegetation clearance works, or other works that may affect nesting birds (including buildings or other suitable breeding bird habitat which are to be removed as part of the proposals) within a phase shall not take place between March and August inclusive or in accordance with the requirements of paragraph 5.5.8 of the Ecological Survey and Assessment (January 2013) presented by David Lock Associates but based upon a survey by ERAP Limited dated May 2010/Updated May 2012 as it relates to the cattle shed on site. In the event that works are required to be carried out during the nesting period a comprehensive risk assessment in order to establish the absence/presence of nesting birds (with proposals for mitigation/compensation, if required) shall be submitted to and approved in writing by the Local Planning Authority before such works are undertaken. Works shall be carried out in accordance with the risk assessment/mitigation/compensation strategy so approved.

22. No site clearance, site preparation or development work shall take place within a phase until a Landscape/Habitat Management Plan to include long-term design objectives, timing of the works, habitat creation, enhancement, management responsibilities and maintenance schedules for all landscaped areas (other than privately-owned domestic gardens) within that phase has been submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall include (but not be limited to) details of the treatment of the Biological Heritage Site located outside the red-lined site as shown on the submitted Application Boundary Plan (Drawing No. LBA002-006) (as set out in Paragraph 5.7.14 (iii) of Ecological Survey and Assessment report), the retained woodland, trees and tree

lines, hedgerows and other areas of public open space. The Landscape Management Plan shall be informed by the Ecological Survey and Assessment (January 2013) presented by David Lock Associates but based upon the survey by ERAP Limited dated May 2010/Updated May 2012. The Landscape Management Plan shall be carried out as approved.

23. Appropriate working methods shall be adopted at all times during the construction of the development hereby permitted to prevent the spread of Himalayan Balsam (*Impatiens glandulifera*).

24. In this condition 'retained tree' means an existing tree which is to be retained in accordance with the submitted Preliminary Arboricultural Impact Assessment prepared by Bowland Tree Consultancy Limited (dated January 2013); and the conditions relating to tree work and replacement planting shall have effect until paragraphs the expiration of 5 years from completion of the final phase of development:

- a) Before the development begins within a phase, including any site preparation works, the delivery of materials or any excavations within that phase, all trees and hedgerows identified for retention in the Preliminary Arboricultural Impact Assessment dated January 2013 by Bowland Tree Consultancy Ltd in that phase shall be protected in accordance with British Standard 5837 2012 (Trees in Relation to Demolition, Construction and Design) the details of which shall be agreed in writing by the Local Planning Authority and implemented in full. An Arboricultural Method Statement, Tree Protection Plan and Tree Protection Monitoring Schedule shall also be submitted to and approved in writing by the Local Planning Authority and the tree protection measures shall be inspected by the Local Planning Authority before the site works are begun within that phase.
- b) The root protection zone shall be agreed in writing by the Local Planning Authority before the development begins in that phase and the agreed tree protection measures shall remain in place until all the approved works have been completed within that phase and all excess materials have been removed from the site including soil/spoil and rubble.
- c) During the building works, no excavations or changes in ground levels shall take place and no building materials/spoil/soil/rubble shall be stored or redistributed within the protection zone, in addition no impermeable surfacing shall be constructed within the protection zone.
- d) No disturbance, pruning or other arboricultural works to any Category 2a or 2b tree identified within Figure 4 of the Ecological Survey and Assessment (January 2013) presented by David Lock Associates but based upon a survey by ERAP Limited dated May 2010/Updated May 2012 as supporting features with either current or future potential for use by roosting bats shall take place within a phase until a detailed investigation by a qualified and licensed ecologist has taken place. The results of any investigation including details of any mitigation measures required shall be submitted to and approved in writing by the Local Planning Authority before any tree works take place in that phase.
- e) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped without the written approval of the Local

Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

- f) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such a size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
- g) The development shall be carried out in full compliance with the Preliminary Arboricultural Impact Assessment dated January 2013 by Bowland Tree Consultancy Ltd unless the Local Planning Authority agrees in writing to any variations to the requirements of the assessment.

25. No development shall take place within a phase until details of the provisions to be made for bat roosts on suitable plots and building elevations within that phase in accordance with paragraphs 5.7.27- 5.7.29 of the Ecological Survey and Assessment (January 2013) presented by David Lock Associates but based upon a survey by ERAP Limited dated May 2010/Updated May 2012 and details of artificial bird (species) nesting sites/boxes on suitable plots and building elevations within that phase have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be implemented before the development in that phase is first brought into use.

Play Space

26. Prior to commencement of development within a phase a play space management plan including long term design objectives, timing of the works, management responsibilities and maintenance schedules for the play areas within that phase, shall be submitted to and approved in writing by the Local Planning Authority. The play space management plan shall also provide precise details of all play equipment and other related structures in that phase and its maintenance and indicate a timescale when the play spaces and related structures (including the community facility structure referred to in Paragraph 2.7 of the Statement of Common Ground for highway/transportation matters (September 2013 Version 5 as amended by letter dated 8 November 2013) agreed between Vectos on behalf of the Appellant and Lancashire County Council (as local highway authority) on the open space shall be provided and made available for use within that phase. The play space management plan shall be carried out in accordance with the details so approved.

Lighting

27. Prior to commencement of development within a phase (approved pursuant to Condition 5) details of a scheme for artificial public street/road/footway lighting for that phase/parcel shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include details to demonstrate how artificial illumination of important wildlife habitats (boundary vegetation of the site and a significant bat commuting route identified across the centre of the site) is minimised. The approved lighting scheme shall be implemented in accordance with the approved details.

Noise

28. Prior to commencement of development within a phase of development (approved pursuant to Condition 5 of this permission) a scheme of noise mitigation measures for that phase adhering to the principles laid out in Section 6 of the Acoustic Survey and Assessment dated January 2013 produced by Martin Environmental Solutions and submitted with the application, shall be submitted to and approved in writing by the Local Planning Authority. The measures so identified shall be incorporated into the construction of the development within that phase and thereafter retained.

End

Report to the Secretary of State for Communities and Local Government

by Phillip J G Ware BSc(Hons) DipTP MRTPI

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

Date: 14 February 2014

RIBBLE VALLEY BOROUGH COUNCIL

**LAND TO THE SOUTH-WEST OF BARROW AND WEST OF WHALLEY ROAD,
BARROW, LANCASHIRE**

APPEAL BY THE BARROW LANDS COMPANY LTD

Hearing held on 5 and 6 November 2013

Land to the south-west of Barrow and west of Whalley Road, Barrow, Lancashire

File Ref: APP/T2350/A/13/2197091

File Ref: APP/T2350/A/13/2197091**Land to the south-west of Barrow and west of Whalley Road, Barrow, Lancashire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by The Barrow Lands Company against Ribble Valley Borough Council.
- The application Ref 3/2013/0099 is dated 18 January 2013.
- The development proposed is the provision of up to 190 residential units (falling within Use Class C3), including affordable housing, with two new vehicular and pedestrian accesses onto Whalley Road, on-site landscaping, formal and informal open space and associated infrastructure works including a new foul water pumping station.

Summary of Recommendation: The appeal be allowed, and outline planning permission be granted subject to conditions.

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Procedural matters

1. The application is in outline, with only the accesses onto the site to be considered at this stage along with the principle of the development.
2. On 23 May 2013 the Council resolved that, had the appeal not been lodged, it would have refused planning permission for reasons related to prejudice to the emerging Core Strategy, insufficient information regarding the impact on local highway infrastructure, and visual impact¹.
3. The appeal was recovered for decision by the Secretary of State on 20 May 2013. The reason for recovery was that the appeal involves a proposal for residential development of over 150 units or a site of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply, and create high quality, sustainable, mixed and inclusive communities.
4. On 25 July 2013 the Secretary of State issued a Screening Direction confirming that the proposal is not EIA development².
5. By letter dated 26 September 2013³, the Council advised that, in the light of changed circumstances, it no longer opposed the appeal. The reasons for this can be summarised as:
 - As a result of further work on the housing requirement and the method of calculation, the Council confirmed that it did not have a 5 year housing land supply.
 - The Highway Authority (Lancashire County Council) advised that it no longer opposed the development, subject to the provision of a relief road (as part of another approved development at Lawsonsteads) and a package of off-site measures.
 - The County Council was no longer of the view that the development would be unsustainable in the light of the intended provision of a community structure on the site.

The Council were represented at the Hearing only to deal with factual matters and not to present a case.

6. The Hearing sat for 2 days on 5 and 6 November 2013. An unaccompanied visit was undertaken to the site and the surrounding area on 7 November 2013.
7. A Unilateral Planning Obligation⁴ was discussed between the appellants, the Council and the County Council before and during the Hearing. The final version, essentially in the form as discussed at the Hearing, was submitted on 12 November 2013.

¹ CD 25

² On the case file

³ CD 91

⁴ APP7

The site and its surroundings

8. The appeal site is 8.4 hectares in extent and lies to the west of Whalley Road and to the south-west of Barrow, which is an expanding settlement located around 2.5 miles south of Clitheroe. The site is largely pastureland which slopes down from the road in a westerly direction⁵. There is a public footpath along the southern edge of the site.
9. Within the boundary of the site there is an area of allotments, owned by the appellants, which are not proposed to be developed. In addition there is an area of land in the same ownership to the south, which is the subject of a larger proposal which encompassed the current appeal site (described below). There is a locally designated biological heritage area to the south. A railway line (including a footpath crossing) runs to the west of the site. There is a copse and the rear of residential properties in Catlow Terrace to the north, and open agricultural land to the south. There is a small commercial yard to the north-west of the site.
10. Whalley Road was originally the main road along the valley running between Whalley in the south to Clitheroe to the north, but a new road (the A59) has been constructed to the east, bypassing Barrow, Whalley and Clitheroe. Barrow was originally a largely linear village, but there has been significant recent development to the east of Whalley Road towards the A59. Opposite the southern corner of the appeal site there is a minor road (Whiteacre Lane) which runs to the village of Wiswell, from where access onto the A671 heading south can be obtained.
11. In the wider area the Forest of Bowland Area of Outstanding Natural Beauty (AONB) lies to the east and west of the site – at a distance in excess of 1 km. Barrow is not affected by any statutory designations, unlike Whalley and Wiswell – both of which are conservation areas and include a number of Listed Buildings.

Policy context

12. The Regional Strategy for the North West was revoked in May 2013, and the parties agreed that it was no longer of any relevance to consideration of the proposal.
13. The only remaining element of the development plan are the saved policies of the Ribble Valley Districtwide Local Plan (1998) (LP).
14. The site is outside the settlement boundary of Barrow as defined in the LP, and does not meet the exceptions set out in LP policy G5 for development in such locations⁶. The main parties agree that the strategic policy base dealing with development strategy, including the established settlement boundaries (including that at Barrow) are significantly out of date – having been prepared during the 1990's in the context of the former Structure Plan⁷.
15. The main parties agreed that the proposal accords with a range of LP policies dealing with crime prevention, affordable housing, the loss of agricultural land,

⁵ Photographs of area in Landscape and Visual Impact Report Section 3

⁶ Doc 2 Para 5.3

⁷ All as set out in Doc 2 Paragraph 5.4 and CD 25

biodiversity and nature conservation, archaeology, landscape, open space, transport and parking provision⁸.

16. Work on the draft Core Strategy (CS) began in 2006 and, after various rounds of consultation⁹, was submitted to the Secretary of State for Examination in September 2012, with further consultation being undertaken by the Council at the same time. Following the submission of the CS the examination was suspended and the Inspector recommended that a number of the evidence base documents should be updated – this included the Strategic Housing Market Assessment and the Strategic Housing Land Availability Assessment¹⁰. Updated documents and proposed changes to the CS were submitted to the Inspector in August and September 2013. At the time of the Hearing into the current appeal no date had been set for CS examination Hearing sessions, and the CS remains unadopted. The parties have agreed a number of CS policies which are relevant, to the extent that the draft CS carries weight¹¹.

The proposal

17. The application is in outline and proposes up to 190 units, including affordable housing and associated development, two new accesses off Whalley Road, and a new foul water pumping station.
18. The proposal is supported by an Illustrative Layout Plan, a Movement Network Plan, a Landscape Framework Plan and a Key Built Form Plan¹².
19. The proposal includes 30% on-site provision of affordable housing, with 15% being provided for elderly persons. This is secured by the Planning Obligation¹³.

Planning history

20. A planning application was submitted in July 2012 for the development of up to 504 dwellings on 18.26 hectares of land, including the appeal site and land to the south. An appeal¹⁴ against the Council's failure to issue a decision was lodged and an Inquiry was held during 2013. A report and recommendation related to this appeal is with the Secretary of State for decision.
21. The parties agree that five other appeal decisions, emphasised by the appellant, which are close to the appeal site are relevant. These are:
- Land off Henthorne Road, Clitheroe¹⁵ where planning permission was granted for 270 dwellings and a doctor's surgery.
 - Site 2, Barrow Brook Business Village¹⁶ where planning permission was granted for 73 open market dwellings and 31 social housing properties.

⁸ Doc 2 Para 5.2

⁹ Doc 2 Para 6.11 – 6.15

¹⁰ List at Doc 2 Para 6.13

¹¹ Doc 2 Para 6.15

¹² Doc 2 Para 4.3

¹³ APP 7

¹⁴ APP/T2350/A/13/2190088

¹⁵ 2161186 CD 15

¹⁶ 2176977 CD 13

- Land off Milton Avenue, Clitheroe¹⁷ where planning permission was granted for residential development – up to 50 units.
- Land at Mitton Road, Whalley¹⁸ where planning permission was granted for 116 dwellings and 21 bungalows.
- Land at Waddow View, Clitheroe¹⁹ where a decision is awaited on an appeal on an outline scheme for 345 dwellings and a crèche.

The Statements of Common Ground

22. The Council and the appellant have completed three Statements of Common Ground (SOCG) – related to planning matters²⁰, education²¹ and highways²².
23. The key elements of the Planning SOCG, agreed between the appellants and the Council, are:
- Agreement that where the development plan is out of date (as in this case especially in relation to housing policies) the National Planning Policy Framework (the Framework) is given greatest weight, including the presumption in favour of sustainable development.
 - The broad location of the site was considered to be capable of delivering sustainable development in the emerging CS in 2011, particularly in the context of the recognised strategic employment location (Barrow Enterprise Park). The Sustainability Appraisal that reviewed this option found development in this broad location to be sustainable²³. There have been a number of planning permissions granted on appeal and by the Council which recognise Barrow as a sustainable location. Lancashire County Council, as the Highway Authority, is no longer of the opinion that the development is unsustainable.
 - The proposed 30% on-site delivery of affordable housing²⁴ accords with draft CS policy H3 and with other Council policy.
 - The Illustrative Layout and Landscape Framework Plans indicate adequate and usable open space which would meet LP and CS policy requirements. Additionally the existing allotments in the centre of the site would be retained. The proposal is close to other facilities in Barrow and Whalley.
 - The Illustrative Layout and Landscape Framework Plans show adequate provision for the retention of trees.
 - There are no significant wildlife interests on the site. No objection has been raised by Natural England or Lancashire County Council (Ecology)²⁵.

¹⁷ 2181354 CD 85

¹⁸ 2188887 CD 85

¹⁹ 2194601

²⁰ Doc 3

²¹ CD 6

²² CD 5

²³ CD 40

²⁴ Details at Doc 2 Paras 7.6 – 7.7

²⁵ Responses on file from both

- The Design and Access Statement and the Illustrative Layout Plan demonstrate that there will be no undue harm to the amenities of adjoining residents.
 - The proposed dwellings would not be the subject of unacceptable levels of noise from Whalley Road or the railway.
 - The site is within Flood Zone 1, and the development would include a foul water pumping station serving those parts of the site on lower ground. The Environment Agency and United Utilities PLC raise no objections to the proposal.
 - The requirements for education provision can be addressed through the Planning Obligation, as agreed in the Education SOCG.
 - Following a geophysical survey carried out as part of the earlier scheme, no further archaeological work is required.
 - It is agreed that Barrow has grown in recent years, with residential and employment developments taking place (and other developments permitted) on the east side of Whalley Road. A number of permissions have been granted outside the settlement boundary. There would be no undue landscape or visual impact caused by the proposal. Although the site is outside the settlement boundary and there would be some change to local character, this would not be significant or detrimental, and would be outweighed by other planning considerations. It is agreed that the appeal proposal leaves the allotments and the Biological Heritage Site untouched, would retain the majority of existing trees and hedges, and includes provision for landscaping.
 - It is agreed that there has been a record of persistent under-delivery of housing in the Borough, and that the Council should include a buffer of 20%²⁶.
 - It is agreed that the Council does not have a five year supply of housing land - the Council's figures currently show a 4.34 year supply²⁷. This follows an uplift in the housing target to 250 dwellings per annum and the Council's acceptance of the use of the 'Sedgefield method'. It is agreed that this has a material effect on the determination of the overall planning balance.
 - It is agreed that the proposal is not strategic in terms of the CS, and that prematurity in relation to emerging policy is not an issue. It is agreed that the extent of any effect on the CS is also influenced by the stage the draft plan has reached, the extent of unresolved objections, and consistency with the Framework.
24. The key elements of the Education SOCG, agreed between the appellants and Lancashire County Council as the local education authority, include an agreement as to the assessment of the educational requirements arising from the proposal and the approach to educational contributions.

²⁶ In terms of Paragraph 47 of the Framework

²⁷ In terms of Paragraphs 47 and 49 of the Framework

25. The key elements of the Highways SOCG, between the appellants and Lancashire County Council as the highway authority, include:

- Agreement on the details of the proposed new accesses onto Whalley Road (part of the current application).
- Agreement on the internal site layout, pedestrian and cycle access and parking standards (as shown on the Illustrative Site Layout Plan).
- Agreement as to the extent of those limited parts of the site which are further than a 400 metre walk to bus stops.
- Agreement on the need for traffic calming in Barrow²⁸, changes to the A671/A59 roundabout²⁹, and various alterations in King Street, Whalley³⁰.
- Agreement on the potential trip distribution.
- Agreement on a Framework Travel Plan and contributions to support the Plan³¹.
- Agreement on a range of matters to be included in a Planning Obligation and by way of a S278 Agreement.
- Agreement on a contribution towards secure cycle shelters at Whalley station.
- The provision of a structure on the open space to enhance community activity.

26. The three SOCGs, taken together, explain the extent of the agreement between the Council and the appellant, leading to the Council's decision not to contest the appeal.

The case for the Appellant³²

Background

27. The proposal is a scaled down version of the previous scheme, to respond to the Council's concerns stemming from the scale of that development. It is not an alternative to that scheme, and both must be considered separately on their merits.

28. The change in the Council's position, so that it no longer opposes the appeal, was based on:

- The acceptance by the Council of a housing requirement of 250 dwellings p.a. and the use of the Sedgefield method. This leads to the Council's acceptance that it does not currently have a 5 year supply of deliverable housing land.

²⁸ As shown on plan VN20066-202 and VN20066205

²⁹ As shown on plan VN20066-16C

³⁰ All shown on plan VN20066-202, VN20066205, VN20066-14A

³¹ CD 5 Section 4

³² The case given here is an edited version of the Appellant's Opening position statement (APP1) and a summary of the discussion at the Hearing.

- The withdrawal of the objection by Lancashire County Council on highways grounds.
 - The County Council's change of position on sustainability.
29. The potential of the area to accommodate housing (at levels much higher than proposed in this appeal) is provided by a number of Council documents. In particular the site was part of a broad location known as Option E in the Generation of Alternative Development Strategy Options for the Core Strategy (June 2011), which was capable of delivering a high-quality sustainable development for 1,950 residential units, linking with the strategic employment location at Barrow Enterprise Park. The Strategic Land Availability Assessment (2009) recognised the appellant's land as having the potential for up to 709 dwellings.
30. The settlement of Barrow straddles Whalley Road. The settlement limits in the LP are out of date, and there is no serious suggestion that they should be given any weight. The development would be a logical rebalancing of the settlement, improving its urban form having regard to the extensive development permitted to the east.
31. Barrow is an established industrial village and is home to the Borough's principal strategic employment location. The Barrow Enterprise Park has an extant permission for some 46,500 sq.m. of business floorspace, and the Council has recently granted outline planning permission for two schemes proposing the substantial extension of the Enterprise Park to the north for further B1/B2/B8 development. Barrow is unusual in this otherwise rural part of Lancashire as it is a growing settlement, with a number of recent permissions for housing within and beyond the old LP settlement limits. The draft CS defines Barrow as an 'other settlement' where it is recognised that new dwellings are to be accommodated. The position is in contrast to most of the 'other settlements', which are affected by environmental designations.

Sustainability

32. The local facilities in Barrow are likely to be greater than those found in most if not all of the "other settlements" as defined in the draft CS³³.
33. The following are the key points on sustainability:
- The broad location of the site was one of the alternative options (Option E) for development in the Core Strategy process (as noted above), as assessed by the Sustainability Appraisal. It has the potential to develop other services focussed both on existing provision and the potential new facilities.
 - There have been a number of planning permissions for housing granted by the Council and on appeal that have accepted Barrow as a sustainable location³⁴.

³³ APP 2 Para 2.7.

³⁴ APP 2 Para 9.4

- At the Inquiry into the previous scheme the Council did not dispute that in terms of proximity to services the site could be deemed to be in a sustainable location.
- In terms of accessibility the Transport SOCG recognises that the site lies close to several bus stops on the Whalley Road, along which run all the main bus services between Whalley and Clitheroe. There are 8 bus services and the majority of the site lies within 400 metres of the stops³⁵.

Housing land supply

34. The Borough has a long and chronic history of under-supply of housing with rising house prices and rents, which have severe social and economic impacts. Following a moratorium on housing that was in place between 2004 and 2008 the Council has since under-delivered against its requirements. Since 2008 net housing completions amount to 552 (or 110 p.a.). This is well under half the housing requirement of 250 p.a. which is included in the revised draft CS. The Council accepts that, in terms of paragraph 47 of the Framework, it is a '20% authority'. That is one where there has been a record of persistent under-delivery of housing.
35. For decision making purposes and in relation to the draft CS the Council has now adopted a housing requirement of 250 p.a., and the use of the Sedgfield method. On that basis there is agreement that there is no 5 year housing land supply in the Borough for the purposes of paragraphs 47 and 49 of the Framework. That has long been the appellant's case.
36. In fact there are very powerful arguments for the housing requirement being 300 p.a. The 250 p.a. figure which the Council has now adopted is derived from a 2013 report³⁶ which makes it clear that the objectively assessed need having regard to the Employment Land Review is 280 p.a. The officers' report³⁷ makes it clear that the 250 p.a. will not address the Borough's full economic needs but would at most allow for some economic growth. The report states that the figure of 250 p.a. rather than 280 p.a. will require further evidence to be collated and tested.
37. In any event, there is now no dispute that there is no 5 year housing land supply in the Borough. The Council has a 4.34 year supply based on a housing requirement of 250 p.a.³⁸; 3.4 based on 280 p.a. and 3.2 based on 300 p.a.³⁹. The absence of this supply is a significant material consideration in favour of allowing this appeal. In the decision on an appeal at Tewkesbury it was said that "...the most significant material consideration is the national policy requirement for a 5 year land supply ...".

³⁵ CD 5 Para 3.4.3

³⁶ CD 27

³⁷ CD 28

³⁸ Doc 2 Para 7.26

³⁹ APP 4 Table 8-1 and APP 1 Para 20

Affordable housing

38. The updated Strategic Housing Market Assessment (SHMA)⁴⁰ shows that the need for affordable housing is now even more acute than previously - now 404 units p.a. rather than the 264 p.a. in the 2009 SHMA. The draft CS and the Council's Corporate Strategy⁴¹ also recognise the acute need to deliver affordable housing and enough homes to meet housing needs. The appeal proposal will provide 57 affordable homes.

The approach to decision-making

39. The parties agree that the appeal is to be primarily judged against the Framework. Paragraph 14 of the Framework applies as the proposal is sustainable development and the LP is out of date and there is no five year housing land supply. This requires that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits. Permission should be granted because of the numerous advantages of the proposal.

The benefits of the proposed development

40. There are many benefits to the appeal scheme⁴². In summary:
- The proposal is for sustainable development.
 - The proposal would provide much needed housing and affordable housing.
 - The proposal is readily deliverable.
 - The proposal will provide for a balanced community and will deliver residential development similar in size to others recently approved in Barrow. It will integrate well physically.
 - The proposal would provide open space.
 - There would be significant economic benefits.
 - There would be New Homes Bonus payments for the Council and the County Council.
 - There would be a very strong link with the principal strategic employment location.
 - There would be support for local services.
 - The scheme would achieve Code for Sustainable Homes Level 3 and include other energy efficiency measures.

⁴⁰ CD 35

⁴¹ CD 36

⁴² Set out at APP 2 Section 9

- The development includes a foul water pumping station which will benefit existing sewers upstream of the site.
- The development includes traffic calming measures and sustainable travel enhancements in Barrow and the surrounding area.

Issues formerly raised by the Council against the development

41. The Council originally raised three issues against the development, all of which it has now abandoned. It is useful to consider each briefly in turn.
42. Prematurity. Originally the Council regarded this as the key consideration, a position since abandoned. The proposal is agreed to be not substantial enough as to justify refusal on prematurity grounds, and there is no prejudice to the emerging plan⁴³. The Framework advice is that prematurity will only justify refusal in exceptional circumstances - this is not the case here. In any event granting permission would remove a concern of the CS Inspector that the draft CS was unclear as to where the development in "other settlements" would be located. Additionally any prematurity argument must have regard to the stage an emerging plan has reached - in this case the examination of the draft CS has been suspended and the future is uncertain. Any such argument does not get off the ground where there is no five year housing land supply. In any event, the proposal would only represent 3.8% of the new housing requirement of the emerging CS⁴⁴.
43. Highway impact. These matters are now agreed, and are the subject of a Transport SOCG. The Highway Authority is content that the appeal proposals will not have an adverse impact on the local highway network. The Planning Obligation will fund a number of beneficial highway improvements in the local area.
44. Visual impact. The Council does not consider that landscape or visual effects would be unacceptable. That was also the view reached in the LVI Report⁴⁵ which accompanied the planning application. This demonstrated that the landscape and visual effects would not be such as to warrant refusal. These views are further endorsed by the appellant's landscape evidence⁴⁶. The site has a strong sense of enclosure brought about by native hedgerows and trees, and the appeal proposal will retain much of this and provide additional planting⁴⁷. The site is adjacent to an urban area and is physically and visually contained, whilst in longer views it would be seen in the context of other development, including some very large buildings. There is no impact on the AONB or any other heritage designations, and no discernible impact on any other character areas.

The issue raised by Network Rail

45. Network Rail did not object to the previous, much larger, proposal. However very late in this appeal process, having not raised an issue at the application

⁴³ CD 54 Paragraph 17

⁴⁴ APP 2 Paragraph 10.20

⁴⁵ CD 94

⁴⁶ APP 3

⁴⁷ Shown on the Landscape Framework Plan

stage, Network Rail appeared to raise an objection related to the effect on nearby crossings - this was reduced at the Hearing to the effect on one crossing. Despite requests from the appellants and the Inspector to explain the objection and provide evidence in support of their position, nothing was produced either before or during the Hearing. Although the Hearing was attended by representatives of Network Rail, their comments did very little to explain or support their position.

46. The appellant has produced detailed evidence on the national context of safety at footpath crossings, the nature of the (Brook House) crossing and its approaches, a crossing survey, desire lines, walk distances and the potential for residents to use the crossing. It quantifies the nature of the activity which could potentially use the crossing. The conclusion is that there would be a very low increased usage of the crossing, which would result in a very limited increased risk.
47. Whilst railway safety is an important consideration, there is no evidence which could possibly justify the refusal of planning permission on this basis.

The case for Network Rail

48. Shortly before the Hearing Network Rail advised that they would be attending the Hearing to explain concerns about safety at a level crossing in the vicinity. A 'Narrative Risk Assessment'⁴⁸, was submitted before the Hearing. These described the two locations, the fact that on a survey shortly before the Hearing, nobody had used the crossing. Various other features of the geometry and use of the crossing were described. Although Network Rail were requested by the appellant and myself to provide a statement expanding on their concerns, nothing was forthcoming, and despite being given every opportunity to do so at the hearing, their representatives were unable to explain the basis for any opposition to the development.

The case for others who spoke at the Hearing

49. Jackie Copley (CPRE Lancashire)⁴⁹ considered that the proposal was wholly unsustainable, especially in the light of the policies in the Framework. It would conflict with the plan led approach and be premature in the light of the emerging CS. The development would harm the countryside and a number of designations, including the Forest of Bowland AONB. It would result in the loss of pasture land.
50. Margaret Mayor⁵⁰ is a resident of Whiteacre Lane, almost opposite the appeal site. The proposal would generate considerable volumes of traffic, as Barrow has few facilities. Traffic from the development would either go into Whalley (which is very congested), to the junction with the A671 (often congested), or along Whiteacre Lane. This is narrow and dangerous – for pedestrians and drivers alike. It is unrealistic to expect residents of the proposed development to use public transport. The scheme is out of all proportion to the size of the settlement, and would be unsustainable. She submitted evidence of current and pending proposals in Barrow, including the previous scheme encompassing the current appeal site. The increase in the size of the settlement could not be justified.

⁴⁸ Doc 7

⁴⁹ Doc T1

⁵⁰ Doc T2

51. Alan Scholfield⁵¹ is a resident of Wiswell. He explained the development of Barrow as an industrial village and stated that the proposal would do nothing to re-establish a community which would be socially, economically and environmentally sustainable. It was premature in the light of the emerging policies for the area. The settlement boundary may be out of date but a new boundary exists in the form of the A59. The incentives previously offered, such as a primary school and social facilities, have disappeared⁵². The Council has only withdrawn their objection due to recent interpretations of the Framework and the method of calculating housing land supply.
52. Jean Brown (Wiswell Parish Council)⁵³ considered that the scheme would not be sustainable given the number of proposals and permissions in Barrow. The area is lacking in infrastructure. The increased traffic would harm Wiswell, Whalley and Clitheroe. She expressed concern about the effect on the level crossings, and urged that this be considered further.
53. David Birtwhistle⁵⁴ provided information on the limited amount of jobs in the area and in particular stressed that many local companies do not employ local people. There is therefore no justification for the proposal in relation to the local employment argument.
54. Janet Higgins (Save Whalley Action Group)⁵⁵ was particularly concerned at the effects of traffic, and the number of accidents which have occurred in and around Whalley. This is especially in the light of the approval of recent housing developments such as Barrowlands. Public transport, particularly trains from Whalley station, is not at convenient times to facilitate commuting to (for example) Manchester. Parking problems in Whalley are already acute and the proposal will worsen them. There is a danger of Barrow and Whalley merging as a result of unregulated development.

Written representations

55. Aside from those (reported above) who also spoke at the Hearing, a number of letters were submitted in relation to the appeal.
56. United Utilities stated that it does not have the capacity within its wastewater infrastructure to serve the development. However the anticipated build rates should allow sufficient time to upgrade the network and the treatment works⁵⁶.
57. Whalley Parish Council objected to the proposal on sustainability grounds (particularly the lack of local facilities), the traffic impact (in particular the amount of traffic through Whalley Village), and the lack of educational facilities.
58. Eleven letters have been received in relation to the appeal, with others sent to the Council before the appeal was lodged⁵⁷. These raise a number of issues, including the effect on local services, the inadequacy of the local sewage and

⁵¹ Doc T3

⁵² Doc 4

⁵³ Doc T4

⁵⁴ Doc T5

⁵⁵ Doc T6

⁵⁶ Letter in red folder on file

⁵⁷ Letters on file

drainage system, the effect on nearby woodland, traffic issues, lack of school places and the lack of local employment.

Inspector's Conclusions

[Numbers in square brackets denote the source paragraphs above.]

Background, agreed matters and main considerations

59. The Council and the appellant reached agreement on all issues before the Hearing, as set out in the Statements of Common Ground [23, 24, 25]. This led to the Council not opposing the appeal. The most important areas of agreement are as follows:

- The appeal should be judged primarily against the National Planning Policy Framework (the Framework). In particular:

Permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

The proposal should be determined against the three strands of sustainable development in the Framework - economic, social and environmental.

The need to significantly boost housing and identify a five year housing land supply is an important material consideration. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

- The policies of the Local Plan (LP), including the location of the site outside the defined settlement boundary, are out of date.
- The draft Core Strategy (CS) policies can be given limited.
- The broad location of the site is considered to be capable of delivering sustainable development.
- The proposed 30% affordable housing element accords with Council policy.
- The Council does not have a five year housing land supply. The Council considers that it has a 4.34 year supply, although the appellant considers that the evidence demonstrates that there is only a 3.2 year supply. In line with the Framework, relevant policies for the supply of housing should not be considered up-to-date.
- There is no objection to the proposal in landscape or visual terms.
- The site is in an accessible location. Subject to the various measures in the Planning Obligation, the development would not have a harmful impact on the local highway network.

60. A range of other matters were raised by local residents, Councillors and Network Rail.

61. Based on national and local policy considerations, third party representations, the issues raised by the previous scheme and, to an extent, by the Council at the earlier stage of the current appeal, the main considerations in this case are:

- The effect on the character and appearance of the area.
- The accessibility of the development by non-car modes of transport.
- The effect of the proposal on highway safety.
- Whether the proposal would undermine the emerging Core Strategy.
- The consequences of the lack of a five year housing land supply.
- The effect of the proposal on safety at Brook House level crossing.

The effect on the character and appearance of the area

62. The proposal is in outline, although the Illustrative Layout Plan, Movement Network Plan, Landscape Framework Plan and Key Built Form Plan provide supporting material which is of assistance in assessing the potential form of the development.
63. Beginning with the effect of the proposal from local viewpoints, it is self-evident that the character of the immediate area would change from agricultural land to a housing development. Clearly there would be a large magnitude of change in respect of a range of viewpoints within the site or directly adjoining it (especially from the footpath to the south), however the only significant affected landscape feature would be an area of rough grazing. From some locations the development would be seen in the foreground of views towards the distant hills.
64. However, given the acknowledged housing needs of the area, it is inevitable that significant new development in the Borough will have to occur on greenfield land. The appeal site is not within or adjacent to an Area of Outstanding Natural Beauty (AONB) or any other landscape or heritage designation – unlike much of the remainder of the Borough [31, 44]. The Barrow Brook Field Biological Heritage Site would be unaffected. Whilst not diminishing the inherent value of the countryside, the development of an area such as this would accord with the advice (given in a plan-making context) in the Framework that land should be allocated which has the least environmental or amenity value.
65. There are a number of trees and hedgerows on the site, which make an important contribution to the immediate and local landscape [44]. Although there would inevitably be a limited loss of hedgerows, particularly in order to provide access to the site, the development as shown on the Illustrative Layout Plan and Landscape Framework Plan suggests that a considerable majority of the existing vegetation could be retained [44]. This matter could be the subject of conditions reserving the details of the development for further consideration.
66. Turning to the effect on the form of Barrow, the existing settlement has been variously described at different times by the parties. What is clear is that Barrow was once a generally linear industrial settlement and that its commercial nature set it aside from other villages in the area. The former settlement boundary in the LP, acknowledged as being out of date, doubtless reflected its original nature.

However much has changed recently and the settlement has expanded considerably since the adoption of the LP. A significant amount of development has taken place to the east of Whalley Road, running up to the A59, and further permissions have been granted in that area [30, 31]. The linear nature of Barrow, to the extent that this was an accurate description of the historical settlement, has largely been lost. That said, the proposal would introduce urban development to the west of Whalley Road where there is currently little built form away from the road. As such, it would not be accurate to describe the proposal as 'rebalancing the settlement', as the appellant has done [30].

67. The proposal would therefore differ from the general pattern of development which is along Whalley Road and running up to the A59. However, although the scale of the scheme would be significant, the overall effect on the perceived form of Barrow would not be great, given the amount of development which has occurred of late. In addition, there is a fall in the land west of Whalley Road, and this change in topography would limit the impact of the scheme.
68. Before turning to the effect of the proposal from more distant viewpoints, it is noteworthy that the broad area of Barrow including the appeal site was identified as suitable for development as part of the emerging CS (Generation of Alternative Development Strategy Options) in 2011 [23, 29]. There is therefore a history behind the Council's current position that the development is acceptable in terms of the layout of the settlement.
69. Finally, consideration needs to be given to the effect of the proposal in the wider landscape, in particular from the AONB. Views of Barrow can be obtained from various areas of higher land, and views were taken of Barrow and the appeal site from a number of locations in the surrounding countryside. From those locations the view of Barrow is dominated by the new development which has taken place between Whalley Road and the A59 and, to some extent, by the traffic on the A59 itself. The magnitude of change caused by the proposal when viewed from the surrounding wider area would be very small.
70. The response of Natural England, as the body responsible for designating and advising on AONBs and responsible for designating national character areas, is of significance. Whilst noting the need for the assessment of local landscape impacts, Natural England raised no concern in relation to the AONB or the national character area [23, 44].
71. In the absence of an objection from the Council, there is no professional landscape assessment to counter the appellant's position that there would be no unacceptable cumulative landscape or visual effects. Overall, the development, though relatively limited in scale, will obviously have an effect on the character and appearance of the immediate area. To that extent there is a limited conflict with LP policy ENV3. However that falls far short of suggesting that it would be unacceptably harmful. From more than around two kilometres from the site, there would be little discernable landscape impact.

Accessibility by non-car modes of transport

72. The extent to which the development would be accessible by non-car modes of transport was raised by a number of local residents, but is no longer an issue for the Council or the Highway Authority.

73. The broad location of the appeal site was considered to be capable of delivering sustainable and accessible development in 2011. This was especially in relation to the proximity of the strategic employment location at Barrow Enterprise Park. Although this option envisaged a significantly wider development, it is noteworthy that the Sustainability Appraisal specifically reviewed this option and found it to be acceptable [29, 33].
74. The Council's previous concerns about this development and the earlier scheme focussed largely on the extent to which the development would relate to existing and future local facilities and be accessible by non-car modes of transport.
75. Retail and educational facilities within Barrow, whilst not extensive, are more plentiful than are found in many settlements of this size – and there are more than in some other locations to which the Council's emerging policy seeks to direct development. In particular there is a primary school, a Co-operative top up shop, a limited delicatessen, two faith establishments and recreational facilities.
76. The extent of built and consented employment floorspace in Barrow is of considerable significance in terms of access to work. Whilst there can be no guarantee that the building of the consented employment schemes will coincide with the building of the appeal development, there is already a good mix of residential and employment in the area. The location of the Council's main strategic employment area in Barrow is an important consideration in favour of the appeal scheme in sustainability terms.
77. Some of these existing and consented facilities are beyond the preferred walking distance from the appeal site, but it would be wrong to equate a destination beyond a notional maximum walk with the automatic use of the car. The facilities are still within the same settlement, and some people will choose to walk greater distances. Cycling is also a realistic option as, although there is no connection to the wider cycle network, there is a wide range of facilities within the recommended 5,000 metre cycling distance. The attractiveness of cycling would also be enhanced by the proposed traffic calming measures in Whalley Road, junction improvements and proposed cycle parking at Whalley station [25, 40].
78. Looking beyond Barrow itself, 8 bus services run along Whalley Road, serving Clitheroe and Whalley. In both those settlements there are railway stations serving a wider area (as well as further employment opportunities). This is a good level of bus provision [25, 33].
79. The majority of the site would be within 400 metres of the bus stops on Whalley Road, which would be upgraded as part of the package of transport measures contained in the Planning Obligation [25, 40, 43]. Those properties beyond 400 metres, although beyond the normal maximum walking distance, would still be in reasonable walking time of the bus stops.
80. There was a representation regarding low bus usage in Barrow [54], and the suggestion was put forward that if the convenience/price of the buses was as good as it was claimed, buses would be more in demand. However the frequency and proximity of the buses would give residents of the proposed development the realistic option of accessing middle and higher order facilities by public transport, thus offering the option of alternative means of transport to the car.

81. Although not determinative, it appears that the Council has not objected on accessibility grounds to other developments in Barrow, aside from the previous scheme affecting the current appeal site.
82. Some residents have criticised the proposal on the basis that it is not a mixed use development, and that this would be inherently more sustainable [51, 58]. Some reference was made to the document entitled 'Living and Working in Barrow' as a more all-embracing concept [51]. But this was an aspirational document put forward by a landowner, and there was no indication that it was likely to go ahead. In any event key facilities such as primary schools and local shops, along with employment opportunities, are located within walking distance of most of the proposed dwellings and this provides a good mix of uses in the area.
83. The County Council's objection to the sustainability of the proposal was apparently withdrawn on the basis that a community structure would be provided within an area of public open space on the site [5, 25]. This would be dealt with by one of the agreed conditions. However, despite discussion with all parties at the Hearing, the use and extent of the benefit of such a structure is unclear, and this only attracts limited weight.
84. Overall, the development would comply with national and emerging CS policy. It would be readily accessible by non-car modes and the proposal, including the Travel Plan and sustainable travel incentives, offers additional accessibility benefits.

The effect on highway safety

85. The main issue raised by local residents is the suitability of Whalley to accommodate increased traffic flow as a result of the development [50, 52, 54, 57, 58]. It is self-evident that the proposal, located on the road between Whalley and the junction of the A671/A59 (with access to Clitheroe and onto the A59), would generate some additional traffic in Whalley.
86. The Council and the appellant have agreed the capacity assessments, which in turn leads to a robust calculation of the increased traffic in the centre of Whalley [25, 43]. The centre of this settlement is dominated by two mini-roundabouts on the main route, and it is the effect on these roundabouts and parking issues which is the source of residents' concern.
87. To the extent that there might be a highway safety issue, the appeal scheme includes two areas of mitigation. Firstly a significant contribution would be made to a range of alterations in Whalley, including changes to the mini-roundabouts, lay-bys, a zebra crossing, footway crossovers, de-cluttering and kerb improvements [25, 40]. In the absence of contrary evidence, there is no doubt that the cumulative effect of these alterations would be to improve the traffic flow through the settlement, especially by reducing the likelihood of manoeuvring activities which currently obstruct the free flow of traffic.
88. The second aspect of the proposed mitigation would be a number of measures along Whalley Road through Barrow, most particularly the improvements to the A671/A59 roundabout and nearby highways. The background to these works is the evidence that 86% of vehicles on Whalley Road is through traffic. The

intention is that the combined effect of these works would make Whalley Road a less attractive through route and encourage the use of the A59 bypass.

89. It is uncertain whether the amount of through traffic using Whalley Road is due to personal preference or a desire to avoid queues at the A59 junction. However the overall effect of the works must logically be to encourage at least some through vehicles onto the A59 and reduce the attractiveness of Whalley Road to through traffic. There is therefore potential for the redistribution of existing trips from Whalley Road to the A59, thus lessening the traffic flows past the site and into Whalley.
90. There is one additional matter which is of particular concern to local residents [50 - 52]. That is the amount of traffic from the development which might use Whiteacre Lane, which is relatively close to one of the proposed site entrances. Whiteacre Lane is, for the most part, a very narrow road and leads into a historic village (and beyond) where the road layout is clearly not designed to cater for modern traffic. The Highway SOCG states that 6% of the traffic generated by the development would use Wiswell Lane. No other detailed assessment was put forward and, although residents' concerns about traffic using this very restricted route are appreciated, it seems unlikely from the evidence that the development would generate significant traffic flows in this direction.
91. Overall there is no substantial evidence that the proposal would cause problems for the free flow of traffic in Whalley or elsewhere, and there is substantial evidence that the various mitigation measures would address any issues which might arise. These would be of a wide benefit. The conclusion is that the proposal would not harm highway safety and would not conflict with LP policy G1 or emerging CS policy. In any event the policy in the Framework is that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Taking into account the mitigation measures within Whalley, along Whalley Road, and at the A671/A59 junction, the evidence is that the residual cumulative impact would be nowhere near that level.

Whether the proposal would undermine the emerging Core Strategy

92. The previous (larger) application was apparently submitted to support the promotion of the appeal site during the CS process, and this approach was stated to have been agreed with the Council. However the delays in the CS process led to the previous appeal being lodged, and subsequently the current reduced proposal being submitted.
93. Although the Council no longer opposes the development in relation to the effect on the emerging plan, some residents remain opposed to the appeal on this basis [49, 51].
94. It is important to consider the stage which the emerging CS has reached, the level of unresolved objections to it, and the extent to which the proposal could prejudice the development plan process.
95. The draft CS was submitted for examination in 2012, at the same time as further consultations were underway. This would normally be a key milestone in the production of a development plan, but in this case the examination was then suspended due to the appointed Inspector identifying flaws in the evidence base,

especially in relation to housing land supply issues. Wide ranging work has since been undertaken by the Council, further consultations have taken place, and more evidence has been submitted to the Inspector [16, 23].

96. There are obviously a range of potential scenarios, but even the most optimistic timescale for the adoption of the Core Strategy is later this year. If less optimistic assumptions are made, the adoption date could be some considerable time further ahead.
97. The Council has also confirmed that no work has been done on any Allocations Development Plan Document. It would be this document which would provide more detail on the preferred locations of housing development.
98. There are substantial unresolved objections to the emerging CS, many of which express fully reasoned concerns [23, 42]. The level and substance of the objections to the CS is accepted by the Council as tempering the weight which can be given to the CS. The unresolved objections to relevant policies must make the outcome of the examination into the draft plan less certain.
99. The scale of the appeal scheme, unlike the previous proposal, is such that the Council does not regard it as strategic, and the authority considers that it would not prejudice the emerging plan. Given the total amount of housing required over the lifetime of the CS, the appeal scheme would only amount to around 3.8% of the total [42]. In addition this is not a new site where a developer has found a windfall parcel of land and put it forward by way of a planning application. The appeal site is within a wider area identified in the Strategic Housing Land Availability Assessment Report (2009) as having the capacity for 709 dwellings, and in the CS Generation of Alternative Development Strategy Options (2011) as having the potential for 1,950 units [29].
100. Furthermore the emerging CS does not preclude housing development at Barrow, as this is defined as an 'other settlement' destined for some new housing [31]. Although the appeal scheme is above the minimum level in the draft policy, there is no upper limit. If this proposal went ahead it does not mean that there would be a policy objection to housing development in other locations.
101. In any event, Barrow is different from most of the 'other settlements' as it includes the Council's principal strategic employment allocation and is already a very substantial settlement. Given the amount of the Borough which is affected by designations which might restrict potential development, the appeal scheme could take pressure from other locations where housing delivery could prove problematic. In any event, there is no evidence that the scale of the proposal in relation to the effect on 'other settlements' would be harmful.
102. Overall, although the Core Strategy has reached the milestone of being submitted for examination, it has since stalled and its forward progress is uncertain and potentially lengthy. There are substantial unresolved objections to it, including objections to the spatial approach to the delivery of new housing, which make the outcome of the process far from clear. The Allocations document is farther away still.
103. The appeal scheme is on land which has been identified as a potential development site for some time, and is in a general location where some

housing is envisaged in the emerging plan. In addition, given the agreed lack of a five year supply of deliverable housing land and the need to increase housing supply, residents' objection to the appeal scheme on the basis of prematurity cannot be sustained.

Housing Land Supply

104. The issue of housing land supply was the subject of substantial evidence from both parties at the previous Inquiry. However, given the Council's acceptance that the authority does not have a 5 year housing land supply, the issue can be dealt with briefly.
105. Both parties agree that the Council's adopted housing policies are out of date, that the draft CS can only be given limited weight, and that the appeal should be judged predominantly against the Framework [23, 39]. The Council also accepts that there has been persistent under-delivery of housing, and that it is a '20% authority' in terms of paragraph 47 of the Framework [23, 34].
106. The Council's position is that a figure of 250 dwellings per annum (dpa) is appropriate, and that the calculation should be undertaken using the Sedgfield method [23, 28]. This leads to a 4.34 year supply. The appellant's position is that a figure of 300 d.p.a. should be used - leading to a current supply of only 3.2 years [36].
107. The resolution of this difference is a matter most appropriately left to the Examination into the CS but, for present purposes, it is enough to note that the Council has a significant shortfall in housing land supply.
108. One consequence of the absence of a five year housing land supply is that the Council's housing policies cannot be considered up to date. However the authority had already accepted that this was the case, so this adds little to the overall balance.
109. The key consequence of the lack of a five year supply relates to national policy - which is to boost significantly housing supply. One of the core planning principles of the Framework stresses the importance of identifying and meeting the housing needs of an area. The lack of a five year housing land supply has an impact on the overall planning balance under paragraph 14 of the Framework and that is a significant material consideration.
110. The proposed provision of open market and affordable housing is wholly in line with LP policy H21 and national policy aimed at boosting housing supply and providing economic benefits. The importance of this issue was illustrated by appeal decisions submitted by the appellant [21, 37].
111. Although this issue is dealt with briefly in this report, due to the agreement between the main parties, this does not indicate a lessening in its weight. The lack of a five year housing land supply weighs significantly in favour of the appeal.

Level crossing safety

112. The concern of local residents regarding safety at the Brook House level crossing is understood. This is clearly a serious matter. However, for reasons which were not clear at the Hearing, Network Rail did not object to the earlier, significantly larger development and only objected to the current scheme at the 11th hour. Even leaving that aside the material they produced before the Hearing and their position at the Hearing provided no evidence to set against the analysis produced by the appellant [45]. There is nothing in this matter which could justify the refusal of planning permission on that basis.

Planning conditions

113. The recommended conditions (Annex A) were the subject of extensive discussion between the parties before the Hearing, and were the subject of a session at the Hearing itself. They represent agreed conditions to be imposed if permission were granted.
114. There are a number of initial conditions, reserving details of the development for further consideration, confirming the extent of the site, and dealing with the details of the accesses and their construction (Conditions 1 – 4). Conditions would provide for carrying out the landscaping works and would control site levels (Conditions 6 and 7). Given the scale of the development, a condition is necessary to divide the overall scheme into specific phases for the reserved matters applications (Condition 5). The design of the development would be in broad accordance with the Design and Access Statement (Condition 8).
115. The height of the proposed buildings along the eastern boundary of the site on Whalley Road needs to be limited in the interests of the living conditions of residents opposite. A condition should be imposed to ensure that development fronting this road is of a reasonable height (8 metres) (Condition 9).
116. A drainage strategy, details of surface water drainage and details of foul drainage need to be submitted for approval (Conditions 10, 11 and 12). More specifically a condition is necessary to ensure that no more than 150 dwellings are occupied before the capacity issue at the Waste Water Treatment Works has been resolved, possibly by way of a capacity improvement scheme (Condition 13).
117. A range of highway details need to be submitted, dealing with the access points and estate roads (Conditions 14 and 15), all in the interests of highway safety. In addition, in the interests of sustainability, a Travel Plan (based on the Framework Travel Plan) needs to be submitted for approval and implemented (Condition 16).
118. In the interests of the amenities of residents of the surrounding area, it is necessary to submit a Construction Method Statement/Management Plan, dealing with a specified range of construction details, including the routing and timing of vehicles in relation to school traffic (Conditions 17 and 18).
119. In order to encourage renewable energy, conditions are necessary to secure at least 10% of the energy supply from renewable or low carbon sources, and achieve Level 3 of the Code for Sustainable Homes (Conditions 19 and 20).

120. A range of tree and biodiversity conditions (Conditions 21 – 22, 24 - 25) are necessary for ecological and landscape reasons. In particular a Landscape/Habitat Management Plan is required, and the retention and protection of existing trees needs to be ensured by conditions. A condition is necessary to prevent the spread of Himalayan Balsam on the site (Condition 23).
121. In order to provide adequate play space, a condition is needed to require the submission of a play space management plan for approval (Condition 26). This would include maintenance provisions.
122. A scheme for public lighting needs to be submitted for approval (Condition 27). This is partly in the interests of the living conditions of nearby residents and partly to avoid light pollution for ecological reasons.
123. Any necessary noise mitigation measures, in line with the principles set out in the Acoustic Survey, need to be submitted for approval in the interests of the amenity of residents. (Condition 28).
124. All the conditions are necessary, reasonable and relevant and accord with the extant guidance on conditions in Circular 11/95 and the Framework.

Planning obligation

125. A Unilateral Planning Obligation has been completed, in discussion with the two Councils. This provides for:
- 30% affordable housing units on the site, 15% being for elderly persons. This is in line with the Council's emerging draft policy H3, is reasonable and is agreed by the authority. It would contribute to the increasing need for affordable housing in the Borough.
 - A range of works and payments related to off-site highway proposals. These are discussed above in relation to highway considerations, and directly relate to the scale of the development, its potential highway impact, and the need to encourage the use of sustainable transport modes.
 - Primary and secondary level educational contributions. These directly and reasonably relate to the scale of the development. The Obligation would produce the required contributions at certain trigger dates.
126. In all respects the terms of the Obligation relate directly to the proposed development and are necessary to make it acceptable in planning terms. The Obligation meets the policy in paragraph 204 of the National Planning Policy Framework and all the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and is a material consideration in this case.

The planning balance and conclusion

127. The housing policies in the development plan are out of date, as accepted by the Council and by virtue of the fact that the authority does not have a five year supply of deliverable housing land.
128. With this background it is clear that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. It is

agreed by the main parties that there are no specific policies in the Framework which indicate that development should be restricted. National policy should therefore be accorded great weight, especially the presumption in favour of sustainable development, which I consider this proposal represents.

129. In relation to the economic role of sustainable development, the proposal would generate direct and indirect economic benefits, as housing has an effect on economic output both in terms of construction employment and the longer term availability of housing for workers. In this context the proximity of the site to the Council's strategic employment allocation is an important consideration. The development would provide additional infrastructure of wider benefit – including highway works, educational provision and a foul water pumping station.
130. In terms of the social role of sustainability the development would offer the opportunity to enhance the local community and provide a substantial amount of much needed market and affordable housing to meet the needs of present and future generations. The quality of the built environment would remain to be assessed at the detailed stage but, based on the illustrative material, there is no reason to doubt that a high quality built environment could be created. The proposal would rely, and to a limited extent enhance, the accessibility of existing local services – both within Barrow and further afield.
131. In relation to the environmental role it is self-evident that the landscape would be changed as a result of the proposal. This would be the case for any development on a greenfield site - which will inevitably have to happen in order to meet the pressing housing needs of the Borough. Good design and the retention of existing vegetation would mitigate this effect to some degree. Of significance is the fact that the site does not benefit from any specific landscape or heritage designation, unlike large areas of the Borough, and the effect on the character of the settlement would be acceptable. Longer views of the development from the AONB would be very limited.
132. The broad location of the site was considered to be capable of delivering sustainable development in the SHLAA (2009) and the emerging CS (2011), particularly given the location of the strategic employment location. The Sustainability Appraisal that reviewed this CS option found development in this general area to be sustainable.
133. The progress of the CS has been slow to date, and its future progress is uncertain, especially given the level of unresolved objections. In any event, there is no evidence that a development of this relatively limited scale would prejudice the development plan process.
134. The lack of a five year supply of deliverable housing land, combined with the historic under supply of housing, is a most important material consideration. To the very limited extent that there are any material considerations against the proposal – essentially the limited local landscape effects – this consideration outweighs the objections and points clearly towards the grant of planning permission.

Recommendation

135. It is recommended that the appeal be allowed and planning permission be granted subject to the conditions set out in Annex A to this report.

P. J. G. Ware

Inspector

APPEARANCES

FOR THE APPELLANT:

James Maurici QC	Instructed by David Lock Associates
Gareth Davis	Director, Vectos (North) Transport Planning Specialists
MSc MCIHT CMILT	
Brian Denny	Landscape and Environmental Planning Director, Pegasus Environmental
BA(Hons) DipLA CMLI CENV MIEMA	
David Lock	Chairman, David Lock Associates
CBE MRTPI	
Stephen Nichol	Managing Director, Regeneris Consulting
MA BA	

FOR THE LOCAL PLANNING AUTHORITY⁵⁸:

Miss Ruth Stockley of Counsel	Instructed by the Head of Legal Services
Sarah Westwood	Senior Planning Officer
BA(Hons) MA MRTPI	
Neil Stevens	Strategic Highways Planning Manager, Lancashire County Council
BEng(Hons) MSc	
John Macholc	Head of Planning Services

FOR NETWORK RAIL:

Michael Gradwell	Town planner
Tim Clark	

INTERESTED PERSONS:

Jackie Copley	Planning Manager, CPRE Lancashire
MRTPI BA(Hons) PgCert	
Margaret Mayor	Resident, Barrow
Alan Scholfield	Resident, Wiswell
Chartered Engineer	
Jean Brown	Vice Chairperson, Wiswell Parish Council
David Birtwhistle	Resident, Barrow
Janet Higgins	Resident, Whalley (Save Whalley Action Group)

⁵⁸ Counsel and officers appeared to assist the Hearing, deal with factual matters and not to present a case

DOCUMENTS

Hearing documents

- 1 List of persons present at the Hearing
- 2 Statement of Common Ground (Planning)
- 3 Housing applications/permissions in Barrow since June 2013
- 4 'Living and working in Barrow'
- 5 Land ownership details related to land north of Barrow Enterprise Park
- 6 Illustrative layout of Lawsonsteads development
- 7 Network Rail – Brook House Narrative Risk Assessment

Appellant's documents

- APP 1 Opening position statement
- APP 2 Statement of David Lock and appendices
- APP 3 Statement of Brian Denny and appendices
- APP 4 Statement of Stephen Nichol and appendices
- APP 5 Statement of Gareth Davis and appendices
- APP 6 Chronology related to Network Rail involvement
- APP 7 S106 Obligation (dated 12 November 2013)

Third party documents

- T 1 Evidence of Jackie Copley
- T 2 Evidence of Margaret Mayor
- T 3 Evidence of Alan Scholfield
- T 4 Evidence of Jean Brown
- T 5 Evidence of David Birtwhistle
- T 6 Evidence of Janet Higgins

	Core Documents
CD1	RVBC Draft Core Strategy 2008- 2028 - Submission Version
CD2	RVBC Appeal Statement of Case
CD3	National Planning Policy Framework
CD4	Draft Barrow A2 Appeal Planning SOCG – Version 1
CD5	Barrow SOCG Highways - Final Agreed Version
CD6	Barrow A2 Education SOCG and HoT – Final Agreed Version
CD7	Unilateral Undertaking for A1 application/appeal
CD8	Wiswell and Barrow Housing Needs Survey 2011
CD9	Barrow Enterprise Park 6 Hectares 3/2012/0346/P Committee Report
CD10	Barrow Enterprise Park 3 Hectares 3/2012/0739/P Committee Report
CD11	Ribble Valley District Wide Local Plan 1998
CD12	Committee Report Request by Wiswell Parish Council 20.11.12
CD12a	Committee Minutes Request by Wiswell Parish Council 20.11.12
CD13	Barrow Site 2, Barrow Enterprise Park appeal decision
CD14	Illustrative Plans submitted with application
CD15	Henthorn Road Clitheroe Appeal Decision
CD16	DLA letter to RVBC re A2 Application support 04.04.13
CD17	DLA letter to RVBC re A2 Application support 17.04.13
CD18	A2 Appeal EIA Screening Letter from PINS 25.07.13
CD19	A1 Screening Direction Letter from Secretary of State

CD20	Counsel's Closing Submission on A1 Inquiry – June 2013
CD21	Counsel's Closing Submission on A1 Reopened Inquiry – September 2013
CD22	Barrow Costs Application – Reopened A1 Inquiry
CD23	Circular 3/2009 Costs Awards in planning proceedings
CD24	Circular 3/2009 Costs Circular Addendum (December 2012)
CD25	RVBC P&D Committee Report 23.05.13
CD26	RVBC AMR 2006 (extract)
CD27	NLP Housing Requirements Review Aug 2013
CD28	RVBC Core Strategy Revised Housing Evidence Committee Report 25.06.13
CD29	RVBC P&D Committee Report 06.08.13
CD30	RVBC SHLAA 2013
CD31	SHLAA 2013 Barrow Site Assessment
CD32	Final DLA Representations on RVBC CS Changes and Evidence 20.09.13
CD33	Addressing Housing Need in RVBC Report – June 2011
CD34	Pennine Lancashire Housing Strategy 2009 - 2029
CD35	RVBC SHMA 2013
CD36	RVBC Corporate Plan and Housing Strategy - 2011-2015
CD37	RVBC Housing Land Availability Schedule – End of July 2013
CD38	CS Generation of Alternative Options Consultation Report 2011
CD39	Hyder SA Non Technical Summary
CD40	Hyder Sustainability Appraisal
CD41	Hyder SA Report Addendum
CD42	Hyder SA Habitats Regulation Assessment
CD43	Hyder SA European Sites Plan
CD44	Hyder SA Update 2013 CS Modifications June/July 2013
CD45	BLCL Previous Representations on Core Strategy (3 parts)
CD46a	Core Strategy Examination Inspector's Letters to RVBC
CD46b	Council Letter to Inspector 1 st July 2013 regarding Core Strategy Examination
CD47a	CLG Application Performance League Table
CD47b	CLG Quality League Table
CD48	The Plan for Growth Executive Summary
CD49	Planning for Growth Ministerial Statement
CD50	Andover Appeal decision
CD51	Binhamy Farm Bude Appeal Decision
CD52	Chief Planner's Letter to CPO's - 31 st March 2011
CD53	Laying the Foundations – Government Report (2011)
CD54	The Planning System General Principles 2005 – Government guidance
CD55	Sellars Farm Appeal Decision
CD56	Tetbury Appeal Decision
CD57	Shottery, Stratford Upon Avon Appeal Decision
CD58	Final Stratford on Avon DC v SSCLG High Court Judgement
CD59	Harlow Appeal Decision
CD60	Burgess Farm, Worsley, Manchester Appeal decision
CD61	Final High Court Judgement – Tewkesbury
CD62	Homelands Farm Bishops Cleeve SoS Appeal Decision

CD63	Congleton Cheshire High Court Judgement
CD64	Cheshire Sandbach High Court Judgement
CD65	Saved Ribble Valley Local Plan Policies
CD66	RVBC report to P&D Committee on Draft Core Strategy 16.08.12
CD67	CS Strategy Summary of Responses - 11 April 2013
CD68	Consultation Responses on Standen Planning Application
CD68a	English Heritage Response on Standen Application April 2013
CD68b	Clitheroe Civic Society Response on Standen Application May 2013
CD68c	Lancashire Garden Trust comments on Standen Application
CD68d	NE response Response on Standen Application April 2013
CD69	Core Strategy Summary of Responses 11 th April 2013
CD70	Council report CS objections from CRAG March 2012
CD71	12 th April RVBC Committee Report on Whiteacre Lane Application 3/2011/0776/P
CD72	8 th November RVBC Committee report on Clitheroe Road application
CD73	Minutes RVBC Budget Working Group 2011
CD74	RVBC Emergency Committee Report Appeals Update 2013 – 1 July 2013
CD75	Hunston High Court Judgment
CD76	RVBC Committee Report May 2013 on Local Development Scheme
CD77	Lawsonsteads RVBC Committee Report July 2013 (Extract)
CD78	SoS Letter to RVBC re Call in Lawsonsteads 11 th September 2013
CD79	RVBC CS Working Group Papers May – July 2013
CD80	CS Inspector letter to RVBC - 3 rd July 2013
CD81	RVBC Consultation letter on CS and Evidence – 9 th August 2013
CD82	Waddington Road Appellant's Opening Statement to Inquiry
CD83	RVBC Housing Land Availability Schedule July 2013 (Figures to end of June 2013)
CD84	RVBC Employment Land Study Refresh 2013
CD85	Mitton Road Appeal Decision
CD86	Proposed Main Changes to Core Strategy - August 2013
CD87	European Landscape Convention ETS176 2000
CD88	JCA33 Bowland Fringe and Pendle Hill Character Area Analysis
CD89	JCA35 Lancashire Valleys Character Area Analysis
CD90	Lancashire Landscape Character Assessment 2000
CD91	RVBC Letter to PINS 26 September 2013 and supporting emails
CD92	Honeybourne Appeal decision
CD93	RVBC Report to the 10 th October 2013 P&D Committee
CD94	DLA Landscape and Visual Impact Report submitted with application

Annex A – Recommended conditions

General

1. No part of the development hereby permitted shall be commenced on any parcel (as referred to in Condition 5) until full details of the layout, scale and appearance of the buildings and landscaping within that parcel (hereinafter called “the reserved matters”) have been submitted to and approved in writing by the Local Planning Authority.

In relation to landscaping, the details shall include: the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, turfed, paved or hard landscaped, including details of any changes of level or landform and the types and details of all fencing and screening. The development shall not be carried out otherwise than in accordance with the approved details.

In relation to ecology, any submission of reserved matters shall incorporate the recommendations of the Ecological Survey and Assessment (January 2013) presented by David Lock Associates but based upon a survey by ERAP Limited dated May 2010/Updated May 2012.

2. Applications for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 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. No more than 190 dwellings shall be developed on the application site edged red on the submitted Application Boundary Plan (Drawing No. LBA002-006) and the vehicular and pedestrian accesses to the site shall be constructed in accordance with the details shown on the following submitted plans:
 - a) Northern access point Drawing no. VN20066/200
 - b) Southern access point Drawing no. VN20066/201

Each site access shall be constructed to base level prior to the first occupation of a dwelling within the parcel of the development served by the access and completed in accordance with the timetable to be approved pursuant to Condition 14 of this permission.

Phasing

5. Prior to the submission of any reserved matters application, a phasing scheme including the parcels which shall be the subject of separate reserved matters applications shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved phasing scheme.

Landscaping and Levels

6. All landscaping schemes approved (pursuant to Condition 1 of this permission) for each parcel of development (as approved under Condition 5 of this permission) shall be fully implemented in the first complete planting and seeding season following the occupation of the dwellings within that parcel or the completion of the parcel to which they relate, whichever is the sooner. Any trees or plants which, within a period of five years from completion of the relevant development parcel die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
7. Applications for the approval of reserved matters (as required by Condition 1 of this permission) shall include details of existing and proposed site levels and the levels of the proposed roads. The development shall thereafter be carried out in accordance with the approved details.

Design

8. Applications for the approval of reserved matters (as required by Condition 1 of this permission) shall be in substantial accordance with the design principles and parameters contained in the submitted Design and Access Statement (January 2013).
9. Any dwelling to be constructed with a frontage (which for the avoidance of doubt shall include a side or rear elevation) onto the eastern boundary of the site (Whalley Road) as edged in red on the submitted Application Boundary Plan (Drawing No. LBA002-006) shall not exceed 8 metres in height (as measured from ground level to the ridge of the dwelling).

Drainage

10. Prior to the commencement of any development, a drainage strategy outlining the general system of drainage for foul and surface water flows arising from the entire site shall be submitted to and approved in writing by the Local Planning Authority. This drainage strategy shall include details of all necessary drainage infrastructure including details of all discharge points from the development and any pumping stations or other bespoke features. The drainage strategy should demonstrate that the surface water run-off generated up to and including the 1:100 year return period critical storm including climate change allowance will not exceed the run-off from the undeveloped site following the corresponding rainfall event. Thereafter the detailed schemes for foul and surface water drainage submitted as part of Conditions 11 & 12 for development within each phase (as approved by Condition No. 5) shall be submitted to and approved in writing by the Local Planning Authority in accordance with the drainage strategy approved under this condition.
11. Prior to the commencement of development within a phase (as approved pursuant to Condition 5), the details of a scheme for surface water drainage and means of disposal for that phase, based on the Drainage Strategy approved pursuant to Condition 10 of this permission, evidence of an assessment of site conditions, sustainable drainage principles, an assessment of the hydrological

and hydro-geological context of the development, the Flood Risk Assessment submitted by Rutter Johnson dated January 2013 (inclusive of how the scheme shall be maintained and managed after completion and any necessary infrastructure) shall be submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, no surface water shall connect into the public sewerage system, directly or indirectly, in accordance with the submitted application and Flood Risk Assessment. The scheme shall be implemented prior to completion of the first dwelling within that phase of the development and maintained and managed in accordance with the approved details at all times thereafter.

12. Prior to the commencement of development within a phase (as approved pursuant to Condition 5), details of the foul drainage scheme for that phase, which shall be based on the Drainage Strategy approved pursuant to Condition 10 of this permission and shall include any necessary infrastructure, shall be submitted to and approved in writing by the Local Planning Authority. The foul drainage scheme shall be implemented prior to completion of the first dwelling within that phase of development and maintained and managed in accordance with the approved details at all times thereafter.
13. Not more than 150 dwellings approved by this permission shall be occupied until the United Utilities plc capacity improvement of the Whalley Waste Water Treatment Works (WWTW) has either:
 - a) been completed in full; or
 - b) a scheme demonstrating that foul flows to Whalley WWTW will not be increased as a result of the development or phase of development hereby permitted before the improvement work at Whalley WWTW has been completed has been submitted to and approved in writing by the Local Planning Authority.

Any foul drainage scheme approved under b) of this Condition in advance of the capacity improvement work at Whalley WWTW being completed shall be constructed in accordance with the approved details.

Highways/Transport

14. No development approved by this permission shall commence within any phase (as approved pursuant to Condition 5) until a detailed scheme (including a timetable for implementation and completion) for the construction of the relevant site access(es) and any temporary construction arrangements including pedestrian facilities to serve that phase and the associated off-site highway improvements to directly serve that phase have been submitted to and approved in writing by the Local Planning Authority. The scheme for the off-site highway improvements shall be in accordance with the details agreed in the Statement of Common Ground for highway/transportation matters agreed between Vectos and Lancashire County Council and as set out in the S106 Planning Obligation related to this permission. The scheme shall be implemented in accordance with the approved details and timetable.

15. The new estate roads within a phase of the development (as approved pursuant to Condition 5) shall be constructed in accordance with a detailed scheme (including a timetable for implementation) which shall be submitted to and approved in writing by the Local Planning Authority before development commences within that phase. The estate roads shall be constructed to adoptable standards in accordance with the Lancashire County Council Specification for Construction of Estate Roads and the scheme shall be implemented in accordance with the approved details and timetable.
16. Prior to the occupation of the first dwelling within a phase (as approved under Condition 5) a Travel Plan based upon the submitted Travel Plan Framework to improve accessibility by sustainable modes for residents of dwellings within that phase shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include:
 - a) Appointment of a named Travel Plan Co-ordinator.
 - b) Details of measures to encourage sustainable travel patterns.
 - c) A scheme for the management and implementation of the Travel Plan.
 - d) Targets for modal shift.
 - e) Implementation timescales.
 - f) A strategy for marketing and proposed incentives.
 - g) Arrangements for monitoring and review.

The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the approved Travel Plan for development within that phase for a period of time not less than 5 years following completion of the final parcel of development in that phase (as approved under Condition 5).

Construction

17. No development approved by this permission shall commence within a phase until a Construction Method Statement/Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved Statement/Management Plan shall incorporate the recommendations of the Acoustic Survey and Assessment (Section 5) and results of the Air Quality Assessment (Section 4) dated January 2013 produced by Martin Environmental Solutions submitted in support of the application and shall be adhered to throughout the construction period. The Statement shall provide for:
 - a) The routing of heavy (HGV) construction vehicles via the A59/A671 and Whalley Road, Barrow thereby avoiding the village centre of Whalley.
 - b) Parking of vehicles of site operatives and visitors within the site.
 - c) Loading and unloading of plant and materials.

- d) Storage of plant and materials used in constructing the development.
 - e) Erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate.
 - f) Wheel washing facilities.
 - g) A management plan to control the emission of dust and dirt during construction identifying suitable mitigation measures.
 - h) A scheme for recycling/disposing of waste resulting from construction works. There shall be no burning on site.
 - i) A scheme to control noise during the construction phase.
 - j) Details of lighting to be used during the construction period which should be directional and screened wherever possible.
18. No heavy goods vehicles (exceeding a gross vehicle weight of 7.5T) shall enter or leave the site, as edged in red on the submitted Application Boundary Plan (Drawing No. LBA002-006), in connection with the construction of the development hereby permitted between the hours of 0830 and 0930, and 1500 and 1600 hours, Monday to Friday inclusive - except during school holidays.

Energy/Sustainability

19. Before development begins within any phase a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development hereby permitted within that phase from renewable or low carbon energy sources shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented and retained as operational thereafter.
20. The dwellings hereby permitted shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

Biodiversity/Tree Protection

21. Tree felling/vegetation clearance works, or other works that may affect nesting birds (including buildings or other suitable breeding bird habitat which are to be removed as part of the proposals) within a phase shall not take place between March and August inclusive or in accordance with the requirements of paragraph 5.5.8 of the Ecological Survey and Assessment (January 2013) presented by David Lock Associates but based upon a survey by ERAP Limited dated May 2010/Updated May 2012 as it relates to the cattle shed on site. In the event that works are required to be carried out during the nesting period a comprehensive risk assessment in order to establish the absence/presence of nesting birds (with proposals for mitigation/compensation, if required) shall be submitted to and approved in writing by the Local Planning Authority before such works are undertaken. Works shall be carried out in accordance with the risk assessment/mitigation/compensation strategy so approved.

22. No site clearance, site preparation or development work shall take place within a phase until a Landscape/Habitat Management Plan to include long-term design objectives, timing of the works, habitat creation, enhancement, management responsibilities and maintenance schedules for all landscaped areas (other than privately-owned domestic gardens) within that phase has been submitted to and approved in writing by the Local Planning Authority. The Landscape Management Plan shall include (but not be limited to) details of the treatment of the Biological Heritage Site located outside the red-lined site as shown on the submitted Application Boundary Plan (Drawing No. LBA002-006) (as set out in Paragraph 5.7.14 (iii) of Ecological Survey and Assessment report), the retained woodland, trees and tree lines, hedgerows and other areas of public open space. The Landscape Management Plan shall be informed by the Ecological Survey and Assessment (January 2013) presented by David Lock Associates but based upon the survey by ERAP Limited dated May 2010/Updated May 2012. The Landscape Management Plan shall be carried out as approved.
23. Appropriate working methods shall be adopted at all times during the construction of the development hereby permitted to prevent the spread of Himalayan Balsam (*Impatiens glandulifera*).
24. In this condition 'retained tree' means an existing tree which is to be retained in accordance with the submitted Preliminary Arboricultural Impact Assessment prepared by Bowland Tree Consultancy Limited (dated January 2013); and the conditions relating to tree work and replacement planting shall have effect until paragraphs the expiration of 5 years from completion of the final phase of development:
 - a) Before the development begins within a phase, including any site preparation works, the delivery of materials or any excavations within that phase, all trees and hedgerows identified for retention in the Preliminary Arboricultural Impact Assessment dated January 2013 by Bowland Tree Consultancy Ltd in that phase shall be protected in accordance with British Standard 5837 2012 (Trees in Relation to Demolition, Construction and Design) the details of which shall be agreed in writing by the Local Planning Authority and implemented in full. An Arboricultural Method Statement, Tree Protection Plan and Tree Protection Monitoring Schedule shall also be submitted to and approved in writing by the Local Planning Authority and the tree protection measures shall be inspected by the Local Planning Authority before the site works are begun within that phase.
 - b) The root protection zone shall be agreed in writing by the Local Planning Authority before the development begins in that phase and the agreed tree protection measures shall remain in place until all the approved works have been completed within that phase and all excess materials have been removed from the site including soil/spoil and rubble.
 - c) During the building works, no excavations or changes in ground levels shall take place and no building materials/spoil/soil/rubble shall be stored or redistributed within the protection zone, in addition no impermeable surfacing shall be constructed within the protection zone.

- d) No disturbance, pruning or other arboricultural works to any Category 2a or 2b tree identified within Figure 4 of the Ecological Survey and Assessment (January 2013) presented by David Lock Associates but based upon a survey by ERAP Limited dated May 2010/Updated May 2012 as supporting features with either current or future potential for use by roosting bats shall take place within a phase until a detailed investigation by a qualified and licensed ecologist has taken place. The results of any investigation including details of any mitigation measures required shall be submitted to and approved in writing by the Local Planning Authority before any tree works take place in that phase.
 - e) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).
 - f) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such a size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
 - g) The development shall be carried out in full compliance with the Preliminary Arboricultural Impact Assessment dated January 2013 by Bowland Tree Consultancy Ltd unless the Local Planning Authority agrees in writing to any variations to the requirements of the assessment.
25. No development shall take place within a phase until details of the provisions to be made for bat roosts on suitable plots and building elevations within that phase in accordance with paragraphs 5.7.27- 5.7.29 of the Ecological Survey and Assessment (January 2013) presented by David Lock Associates but based upon a survey by ERAP Limited dated May 2010/Updated May 2012 and details of artificial bird (species) nesting sites/boxes on suitable plots and building elevations within that phase have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be implemented before the development in that phase is first brought into use.

Play Space

26. Prior to commencement of development within a phase a play space management plan including long term design objectives, timing of the works, management responsibilities and maintenance schedules for the play areas within that phase, shall be submitted to and approved in writing by the Local Planning Authority. The play space management plan shall also provide precise details of all play equipment and other related structures in that phase and its maintenance and indicate a timescale when the play spaces and related structures (including the community facility structure referred to in Paragraph 2.7 of the Statement of Common Ground for highway/transportation matters (September 2013 Version 5 as amended by letter dated 8 November 2013) agreed between Vectos on behalf of the Appellant and Lancashire County Council (as local highway authority) on the open space shall be provided and made available for use within that phase. The play space management plan shall be carried out in accordance with the details so approved.

Lighting

27. Prior to commencement of development within a phase (approved pursuant to Condition 5) details of a scheme for artificial public street/road/footway lighting for that phase/parcel shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include details to demonstrate how artificial illumination of important wildlife habitats (boundary vegetation of the site and a significant bat commuting route identified across the centre of the site) is minimised. The approved lighting scheme shall be implemented in accordance with the approved details.

Noise

28. Prior to commencement of development within a phase of development (approved pursuant to Condition 5 of this permission) a scheme of noise mitigation measures for that phase adhering to the principles laid out in Section 6 of the Acoustic Survey and Assessment dated January 2013 produced by Martin Environmental Solutions and submitted with the application, shall be submitted to and approved in writing by the Local Planning Authority. The measures so identified shall be incorporated into the construction of the development within that phase and thereafter retained.

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for permission to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.