Planning Inspectorate

Appeal Decisions

Inquiry held on 15-18 October and 22 October 2024

Site visit made on 15 October 2024

by Helen Hockenhull BA (Hons) B.Pl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2024

Appeal A Ref: APP/A2335/W/24/3345416
Land at Bailrigg Lane, Lancaster, Lancashire, LA1 4PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Gladman Developments Ltd against the decision of Lancaster City Council.
- The application Ref is 19/01135/OUT.
- The development proposed is for the demolition of Low Hill House and the erection of up to 644 dwellings (Use Class C3), a local centre (Use Class E) of no more than 280sq m internal floorspace, a community hall (Use Class F2) of no more than 150sq m internal floorspace, public open spaces including equipped children's play areas, land re-grading, recreational routes, landscaping and sustainable urban drainage systems and creation of vehicular access from Bailrigg Lane and Hala Hill to the North.

Appeal B Ref: APP/A2335/W/24/3345417
Land north east of Bailrigg Lane, Bailrigg, Lancaster, Lancashire, LA1 4XN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Gladman Developments Ltd against the decision of Lancaster City Council.
- The application Ref is 19/01137/FUL.
- The development proposed is the construction of an access link road between Bailrigg Lane and the Health Innovation Campus.

Decisions

1. Appeal A is dismissed.

2. Appeal B is dismissed.

Preliminary Matters

3. Appeal A is submitted in outline with all matters reserved except for access. A Development Framework Plan has been submitted which shows how the appeal site could be developed. It is agreed in the Planning Statement of Common Ground (SoCG) that this is illustrative, and I have considered it accordingly. As part of the Environmental Statement, two Parameter Plans were submitted, one of which showed an indicative internal layout and bus route[1]. There was some debate at the Inquiry as to whether this plan was illustrative. Nevertheless, the appellant is content to have this drawing referenced in any plans condition should the appeal be allowed.

[1] CD2.18

4. Within an agreed timeframe after the Inquiry, the appellant submitted a final section 106 agreement in relation to Appeal A. This secures the provision of affordable housing and financial contributions towards a range of matters including highway improvements, a travel plan, off site sports facilities, on site open space and its management, a community hall and biodiversity net gain. The agreement also includes a blue pencil clause for the provision of a contribution towards health care provision. I discuss this further below.

5. The Council refused outline planning permission for Appeal A for four reasons relating to the provision of highways infrastructure, high quality urban design, shadow flicker and flood risk. Before the event the Council withdrew reasons for refusal 1 and 3, relating to highways infrastructure and shadow flicker following the consideration of further evidence submitted by the appellant. Accordingly, the Inquiry focused on the issues of high-quality urban design and flood risk.

6. In relation to the matter of urban design, in their Closing Statement, the Council stated that their witness had conceded on this point and therefore the Council would not pursue it further. I note the Council's position on this issue at the close of the Inquiry, however, I am not satisfied that this matter has been adequately addressed. As such, I consider it further below.

7. In Appeal B, part of the reason for refusal related to the lack of mitigation for the loss of hedgerow on Bailrigg Lane. This particular matter was also withdrawn by the Council before the event and therefore I do not address it.

Main Issues

8. Given the above, I consider the main issues in this case are as follows:

9. In respect of Appeal A

- Whether the proposal would provide innovative, high quality urban design and sense of place, addressing the topography constraints of the site and its influence on site layout, water management, landscaping, energy and noise mitigation; and
- Whether the site is sequentially preferable in terms of flood risk.

10. In respect of Appeal B

- Whether the proposed link road in isolation would have a significant adverse effect on highway safety.

11. In respect of both Appeals

- Whether the proposals would cause harm to the setting of nearby heritage assets in particular the Grade II listed Bailrigg Farmhouse, and also archaeological interests; and
- Whether the proposals would, alone or in combination with other plans and projects, cause harm to the integrity of nearby European protected sites.

Reasons

Background

12. The appeal site, in respect of Appeal A, lies to the north of Bailrigg Lane to the south of Scotforth, a suburb located to the south of Lancaster. It comprises approximately 39.3 hectares of land consisting of pastoral fields separated by hedgerows and areas of woodland. A public footpath runs north south through the centre of the site. High voltage power lines traverse the southern part of the site in an east west direction. Ou Beck runs from the northern end of the site to the rear of houses on Knowle Hill Crescent and Barnacre Close and then south through low lying land at the centre of the site before turning south west through Bailrigg.

13. The site is bounded by existing residential development to the north and north west with the small hamlet of Bailrigg to the south and Lancaster University beyond. Bailrigg House and Bailrigg Farmhouse, both Grade II listed buildings lie to the south west of the site. Morecambe Bay Special Area of Conservation (SAC) and Ramsar site, and the Morecambe Bay and Duddon Estuary Special Protection Area (SPA) is situated around 2.2km to the northwest.

14. It is proposed that access to the site be taken from two points. Firstly, through the extension of the Health Innovation Campus access road, Sir John Fisher Way to the south, the subject of Appeal B, and secondly from a new junction with Hala Hill to the north.

Principle of Development

15. The development plan consists of the Local Plan for Lancaster District 2011-2031 Part One: Strategic Policies and Land Allocations Development Plan Document (DPD) (July 2020) (LP1) and the Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD (July 2020) (LP2).

16. The appeal site is located within the Lancaster South Broad Location for Growth (BLfG) (including Bailrigg Garden Village), as defined by Policies SG1 and SG3 of LP1. Policy SG1 outlines that the BLfG would provide a mixed use development of at least 3500 new homes, of which 1250 would be provided within the Plan period. Most of the housing would be provided in the proposed Garden Village. The Council's intention was to prepare a Lancaster South Area Action Plan DPD to guide and plan for the proposed growth.

17. In 2020, the Council in partnership with Lancashire County Council, were successful in securing Housing Infrastructure Fund (HIF) monies to facilitate new highway infrastructure to support the proposed growth, including a reconfigured junction 33 of the M6, and a new link road to connect south Lancaster to the motorway. In 2023, due to rising costs, the County Council decided to return the HIF funding to Central Government. This triggered a review by the City Council which culminated in a decision to stop work on the Area Action Plan and carry out a full review of the Local Plan instead. The Council's Local Development Scheme suggests the Plan will not be adopted until 2026.

18. Relevant to these appeals, is that Policy SG1 enables development to come forward in the BLfG in advance of the Area Action Plan, providing that three criteria are met. Firstly, it is required that there be no prejudice to the wider Garden Village, including its infrastructure requirements, and that proposals would not undermine the integrated and coordinated approach to the wider Garden Village development. Secondly the development should conform with,

and further, the Key Growth Principles (KGP) in Policy SG1 and, thirdly, that the opportunities for sustainable transport modes should be fully considered and the residual impacts upon the transport network should not be severe.

19. Turning to the first criterion, it is unknown at this time if the Local Plan Review will continue to propose a BLfG in South Lancaster. It is also unknown whether the Garden Village proposal will continue to be pursued. Accordingly, the appeal proposal could not, in my view, prejudice the delivery of the Garden Village when there is no certainty that it will take place.

20. The second criterion references the 15 KGPs set out in the policy. It has to be said that not all of them are applicable to these appeals as they relate to the delivery of the Garden Village or proposals to expand the University. The Council highlighted six KGPs that they considered the scheme failed to meet. These relate to design, creating a sense of place, creating a healthy cohesive community, high quality open spaces, minimising climate change impacts and managing flood risk. These matters I deal with later in these decisions.

21. The third and final criterion relates to the opportunities for sustainable transport and the impacts on the highway network. Following further evidence and modelling by the appellant, an updated position statement was provided by National Highways[2] confirming the view that the predicted level of queuing from the A6 onto the strategic road network ie. M6 junction 33, is reduced with the mitigation proposed. They raised no objection subject to conditions. On this basis the Council confirmed that it would no longer defend the first reason for refusal in respect of Appeal A. I am satisfied that the residual impacts on the highway network would not be severe, and the proposal would be acceptable in this regard.

22. In terms of sustainable transport measures, the proposal in Appeal A would retain the existing public right of way through the centre of the site and would provide additional pedestrian and cycle routes linking to the existing network. It is also proposed that the primary vehicular access into the site will be designed to accommodate a bus route through the development. Given the above, I find that the appeal scheme has fully considered the opportunities for sustainable transport modes.

High quality urban design (Appeal A)

23. As stated above, Policy SG1 of LP1, sets out a number of KGP's which essentially relate to high quality design. The Council's second reason for refusal in respect of Appeal A expresses concern that the number of dwellings proposed, and the constraints of the site would not provide a high quality design and overall sense of place. It goes on to state that the application does not refer to distinctiveness and innovation which does not give confidence that the high bar of design in Policy SG1 would be achieved.

24. The original planning application was accompanied by a Design and Access Statement as well as a Parameters Plan and a Development Framework Plan. In May 2021 a Design Principles document was prepared to demonstrate how the proposals were consistent with the high-quality urban design aspirations of Policy SG1. A revised document was submitted in February 2022[3] before the scheme was presented to the 'Places Matter' Design Review Panel in March

[2] CD4.97
[3] CD2.6

2022. Following the panel's report[4], a Design Code[5] was prepared in June 2022 to support the outline planning application. The Council's evidence makes a number of criticisms of the submitted Design Code.

25. Before I address those criticisms, I shall consider the status of the Design Code. The Council made much of the fact that there was nothing to suggest that the Design Code was illustrative. Therefore, following the advice in Planning Practice Guidance[6], a decision maker must treat it as part of the application and cannot condition this for future approval. The Council argued that it therefore followed that if the Design Code was found to be deficient then the scheme as submitted should not be approved.

26. The purpose of the Design Code as stated in the document[7] is to further demonstrate how a high-quality new neighbourhood for 644 homes, new community uses and 17.7 hectares of green infrastructure will be achieved at the site.

27. Design is an overarching concept that is pertinent to all reserved matters. Therefore, the Design Code's purpose is not to make the reserved matters design choices e.g. layout, landscaping, appearance but instead to provide clear guidance for those decisions to be made. The Design Code forms a supporting technical document which bearing in mind this is an outline application, it will form a material consideration for future reserved matters applications.

28. Topography is an important feature of the site. This was clearly evident from my site visit. It will be a key driver which will dictate, to a large extent, the proposed layout. The drumlin top is proposed to be protected within an area of open space, from where there are opportunities for long distance views. Valley floors are to be free from development and sustainable drainage features are proposed to be located in these low areas of the site. The new dwellings are proposed to be sited on the valley slopes with streets having a north south bias, reflecting that of the existing residential development to the north. The primary street structure traverses the site contours to provide a gentle climb or descent with no gradients exceeding 1 in 12.

29. I agree with the Council that the Design Code could have included illustrations or cross sections, such as those included in the rebuttal proof of the appellant's design witness, to visually demonstrate what was being described in the text. However, I am generally satisfied that the submitted Design and Access Statement and the Design Code sufficiently take topography into account and provide design principles to inform detailed design and layout at reserved matters stage.

30. The site occupies just over 39 hectares and over 17 hectares are proposed to be open space. The appellant advises the net density of development amounts to around 32 dwellings per hectare. There is nothing in the evidence that suggests to me the 644 dwellings proposed could not be accommodated on the site. It is notable that the Council conceded in cross examination that the site could satisfactorily accommodate the number of dwellings proposed.

[4] CD2.23
[5] CD2.13
[6] PPG Paragraph 035
[7] CD2.13 para 1.1

31. The second KGP of Policy SG1 seeks to achieve a sense of place and create a sense of community for new residents. The appeal scheme adopts a landscape led design approach taking account of the character of the site, its topography and the opportunities for green infrastructure. The Design Code envisages the development of three Neighbourhood Quarters, each with a distinctive character achieved through the architectural treatment of the homes, coupled with their relationship to the site features and open space. These are referred to as Drumlin, Ou Beck and Beechwoods. Their development, along with the proposed landscape structure will create a strong sense of place.

32. The water management strategy for the site involves the creation of attenuation ponds at the natural low points in the site. I will address the flood risk issues later but in terms of sense of place, these features can be visually attractive, enhance biodiversity and become integral parts of the green infrastructure.

33. The creation of a sense of community can be achieved through the multi-functional open space, including play areas, allotments and off lead dog walking zone, promoting active and healthy lifestyles. Together with the proposed local centre with retail and community uses, these elements would create a sense of community.

34. In terms of distinctiveness and innovation, the fourteenth KGP seeks to ensure innovative urban design in terms of layout and density and the specific design of new buildings, including the application of new technologies. The eleventh KGP looks to ensure development is resilient and adaptable to climate change. The proposal is in outline. The reserved matters submission will provide details of layout, building design, materials, the use of appropriate technologies and the orientation of buildings to maximise solar gain. It is appropriate that these design issues and consideration of whether they meet the policy objectives, takes place at this later stage.

35. Whilst not specifically mentioned in the reasons for refusal, the Council, in written evidence, questioned the level of car parking to be provided on site and the potential for car parking to dominate the street scene. The submitted scheme is proposed to adhere to the Council's current car parking standards. I accept that these are a maximum and lesser car parking could be provided. I consider that this, along with the siting of car parking and its impact on the street scene, could be considered further at reserved matters stage.

36. The site is in a sustainable location and there are opportunities for travel other than the car. The development would provide pedestrian and cycle pathways, and the primary access has been designed to accommodate a bus service. A Framework Travel Plan is included in the Transport Assessment to encourage sustainable travel and a more detailed document can be the subject of a condition on any approval.

37. The Environmental Statement accompanying the planning application assesses noise issues from the adjacent motorway. It concludes that internal noise in the dwellings can be addressed through upgraded glazing specifications and/or alternative means of ventilation. External noise in gardens and play areas is identified as an issue requiring mitigation. The Parameters Plan illustrates an acoustic barrier on the eastern site boundary with the motorway. Whilst the Council confirmed in oral evidence that they have no objection to a fence from

a visual or landscape perspective, they have concerns in terms of its design and effect on place making.

38. I agree that a fence would be a prominent feature especially as the motorway is elevated above the appeal site. However, it is not clear to me how it can be acceptable in visual and landscape terms when its design must be integral to that assessment. The appellant suggested different designs could be considered, for example a green wall and attention given to landscaping to soften its appearance. I am satisfied that this could be the subject of a condition requiring the submission of details at reserved matters stage.

39. Given the above, I am satisfied that the proposal would provide an innovative, high quality urban design and sense of place, addressing the topography constraints of the site and its influence on site layout, water management, landscaping, energy and noise mitigation. The scheme is complaint with LP1 Policy SG1 and LP2 Policy DM29 which seek to achieve suitable development incorporating positive urban design contributing to the identity and character of the area.

40. It is clear from the Council's evidence that they lack confidence that the scheme would be innovative and of a sufficiently high-quality design. The Design Code in their view does not go far enough to explain how this would be achieved and provide guidance for the reserved matters stage. However, should the Council still not be satisfied with the scheme at this later stage they would have the ability to negotiate revisions to the scheme and if necessary, refuse an application for reserved matters on this basis.

Flood Risk (Appeal A)

41. The National Planning Policy Framework (the Framework) in paragraph 165 seeks to ensure that development is steered away from areas at the highest risk of flooding. It sets out in paragraph 168 that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas at lower risk of flooding. A sequential risk based approach should be applied, the Sequential Test, taking into account all sources of flood risk and the current and future impacts of climate change so as to avoid where possible flood risk to people and property. Only where other sites are not available, is the proposal subject to a further Exception Test to demonstrate that the sustainability benefits of the development would outweigh flood risk and that the site would be safe from flooding for its lifetime.

42. It is clear from the Framework that the strategic flood risk assessment (SFRA) provides the basis for applying the test. The Environment Agency Flood Zone Maps show that most of the appeal site in Appeal A is within Flood Zone 1 (low risk) however there is a very small area of land on the western boundary next to Burrow Beck in Flood Zones 2 and 3 (medium to high risk).

43. Planning Practice Guidance[8] gives advice on how the Sequential Test should be applied to planning applications. It states that it should be applied to major and non-major development where the site is in an area at low risk from all sources of flooding unless the SFRA or other information indicates there may be a risk of flooding in the future. In this case, the SFRA[9] demonstrates that

[8] PPG Flood Risk and Climate Change Paragraph: 027 Reference ID: 7-027-20220825
[9] CD12.3

there is a risk of flooding from fluvial, surface water and groundwater sources in various parts of the site.

44. The appellant has prepared a site-specific flood risk assessment (FRA)[10]. This confirms fluvial and surface water flood risk on the site. I am advised by the appellant that national fluvial mapping is generally limited to catchments larger than 5 km sq. so that Burrow Beck is covered by the Environment Agency hydraulic model, but Ou Beck is not. The FRA demonstrates the fluvial flood zone associated with this watercourse, which hydraulic modelling shows includes areas of Flood Zone 2, 3a and 3b. Therefore, there is an area of medium to high flood risk with the western site boundary by Burrow Beck and also through the middle of the development from Ou Beck and its tributaries. In terms of groundwater flooding, the FRA assesses this as negligible risk at the surface due to topography and ground conditions. I have no reason to disagree with the appellant's Assessment. Its findings are not challenged by the Council.

45. There was much discussion at the Inquiry as to which assessment should be used to assess flood risk and trigger a Sequential Test; whether the SFRA should be considered in isolation, whether the FRA should be the determining assessment or whether both should be considered.

46. The SFRA recognises that its mapping has limitations. For example, in relation to groundwater flood risk, it tells developers to carry out their own assessment to check whether there is a flood risk from this source. This has been undertaken by the appellant in the submitted FRA. Furthermore, as I have already mentioned above, the flood zone associated with Ou Beck is picked up in the FRA but is not in the SFRA mapping which relies on the Environment Agency Flood Maps.

47. The Planning Practice Guidance (PPG) advises the use of the SFRA and other information[11] in making an assessment as to whether the sequential test should be applied to a planning application. The FRA clearly falls into the 'other information' category. Bearing in mind the strategic higher-level nature of the SFRA, it appears reasonable and sensible to me that where a more detailed site-specific FRA is available that it should be taken into account.

48. The decision as to whether a sequential test is required lies with the decision maker. This has been confirmed in case law.[12]

49. Environment Agency Standing Advice sets out when a sequential test is needed and when development is exempt. It states a Test is required for any proposed building, access and escape route, land raising or other vulnerable element in Flood Zone 1 where the SFRA shows it will be at increased risk of flooding.

50. The submitted Parameters Plan shows that the scheme can be laid out so that the proposed dwellings can be located outside the areas of flood risk. However, the internal access road would need to go through areas of surface water flood risk as it crossed Ou Beck to the south of the site and the former culverted motorway drainage system for the M6 to the north. In oral evidence

[10] CD2.17
[11] PPG Flood Risk and Climate Change, third bullet point Paragraph: 027 Reference ID: 7-027-20220825
[12] CD16.4 and 16.5 Wathen -Fayed v SSLUHC [2023] EWHC (Admin) and Substation Action Save East Suffolk Ltd v SSESNZ [2024] EWCA Civ 12

the appellant's flood risk witness expressed the view that the reference to 'access' in the Standing Advice meant only the main access point and not to internal access roads. However, an internal access road would be a vital link to enable residents to escape the site in a flood event. It therefore follows that internal access must not be vulnerable to flooding.

51. I understand that the proposed crossings would comprise the raised covering, essentially a bridging, of the watercourses concerned. Due to the elevation of the crossing points, the appellant argued that the access route would not be at risk of flooding.

52. The appellant takes support for this position from the PPG[13], which states that measures to avoid flood risk vertically can be taken, by locating the most vulnerable uses on upper storeys, and by raising finished floor and/or ground levels.

53. However, flood risk mapping is generally seen in a two-dimensional perspective. It covers a particular defined area and does not take account of height. So even if a road is elevated and a bridging point provided over a culverted watercourse, it is still located within an area of flood risk.

54. The aim of the Sequential Test is to first steer development away from areas at risk of flooding. The PPG states that avoiding flood risk through the Sequential Test is the most effective way of addressing flood risk because it places the least reliance on measures to mitigate flood risk.

55. The conclusion of the appellant's FRA takes account of a range of mitigation measures, including realigning Ou Beck, opening culverts into open channel and the removal of undersized culverts. However, proposing works that would potentially mitigate the risk of flooding, confuses the Sequential and Exception Test as set out in the Framework and expanded upon in the PPG. The Exception Test should only be applied, when, following the application of a Sequential Test, it has been demonstrated that it is not possible for development to be located in areas with a lower risk of flooding.

56. The PPG[14] is clear that even where an FRA shows that development can be made safe throughout its lifetime without increased risk of flooding elsewhere, as is the case here, the Sequential Test still needs to be satisfied. I accept that the appellant has adopted a sequential approach by proposing built development outside the mapped extent of flooding. However given the above, I conclude that a Sequential Test is required.

57. I acknowledge that the proposed surface water drainage strategy has the potential to result in betterment. It is proposed to regulate surface water run off flows through the use of attenuation basins and tanks so that run off will be attenuated on site up to and including the 1 in 100 year plus 50% climate change event. This would have post development benefits as it would reduce peak flows which contribute to existing flooding downstream and ensure the development does not increase the risk of flooding elsewhere. Furthermore, the proposed re alignment of Ou Beck from the rear gardens of properties on Knowle Hill Crescent and Barnacre Close would assist to alleviate the current risk of flooding. These improvements form a positive aspect of the scheme

[13] PPG Paragraph: 004 Reference ID: 7-004-20220825
[14] PPG Paragraph : 023 Reference ID: 7—23-20220825

providing wider sustainability benefits. Whilst they do not alter my finding that a Sequential Test is required, I take account of them in the planning balance.

58. I note that there has been no objection to the development from the Environment Agency or the Lead Local Flood Authority. This is not relevant to whether or not the Sequential Test is required, this is a matter for the decision maker.

59. The appellant has brought my attention to an earlier SFRA[15] prepared in 2017 in support of the Local Plan. This document undertook a sequential assessment of a number of potential sites to be allocated in the then emerging Local Plan, one of which was the appeal site. Whilst the site was not allocated in the Plan, the assessment concluded that the site would be suitable for development subject to consideration of site layout and design. Whilst not the position in this case, the PPG makes it clear that when a site has been allocated for development and been subject to the sequential test at plan making stage, a further sequential test at application stage will not be required.

60. The 2017 SFRA has been superseded by the 2021 version. Accordingly, whilst this part of the site's planning history is informative, I must have regard to the findings of the most up to date assessment in my consideration of this issue.

61. Both parties referred to a recent appeal decision for a site nearby in Galgate[16] where the issue of flood risk and the need for a Sequential Test was raised. The circumstances of the case are different to the appeal before me, in that the appellant agreed that a Sequential Test was required and in fact one was provided. In any event, it is matter of planning judgment depending on the context of each case and the submitted evidence, whether a Sequential Test is required.

62. In light of my findings, the appeal proposal would fail to comply with Policy DM33 of LP2 which requires new development to satisfy the requirements of the sequential test and exception test, where necessary, in accordance with national planning policy. It also fails to comply with the objectives of the Framework and the PPG to avoid inappropriate development in areas at risk of flooding.

Whether the proposed link road in isolation would have a significant adverse effect on highway safety (Appeal B).

63. The reason for refusal for Appeal B, the link road, is inextricably linked to Appeal A, the outline planning application for up to 644 dwellings. In the SoCG the parties agree that the reason for refusal for Appeal B would be addressed if Appeal A was allowed. Whilst not specifically stated, the converse must also apply. If Appeal A is to be dismissed, then so should Appeal B.

64. Appeal B has not been considered in isolation to Appeal A. If the outline application were to be dismissed and the link road development allowed, the provision of restrictions on Bailrigg Lane would be in doubt, as they would be at the discretion of the Highway Authority. This could result in a link from the University to the north along Bailrigg Lane connecting to the A6. Given the limited width of the lane and lack of footways, the increased traffic would be in

[15] CD 12.1
[16] CD 16.2 Appeal Ref APP/A2335/W/23/3326187 Land West of Highland Brow, Galgate

conflict with pedestrian and cyclists. Thus, the proposed link road in isolation would create a highway safety issue.

65. Therefore, if I dismiss Appeal A, I must also dismiss Appeal B.

Heritage Matters (Appeal A and B)

66. The proposed developments have the potential to cause harm to the settings of the Grade II listed Bailrigg Farmhouse and Bailrigg House.

67. Bailrigg House was once a large private residence but is now converted to offices. Constructed between 1899 and 1902, the facade of the house is a mixture of red brick, stone and timber frame in a Tudor revival style. Its significance derives largely from its built form and fabric. There is no intervisibility between the House and the appeal site as a result of structures and a significant area of existing woodland. Its setting would therefore be preserved.

68. Bailrigg Farmhouse, built in 1718 is constructed of sandstone rubble and has a slate roof. It has been extended and altered including the provision of a rear porch and single storey extension connecting it to an adjacent cottage. Its significance derives from its built fabric which holds evidential, historic and aesthetic values. The Farmhouse and its outbuildings have now been converted to residential use. There is a historic functional link between the Farm complex and the appeal sites, but this has now been severed.

69. To the north and east, modern residential development and planting prevent intervisibility between the appeal sites and the listed building. Looking to the south, views are mostly obstructed by an intervening residential property and modern garages. The appeal schemes propose additional planting which would further prevent views towards and from the proposed development. The proposal would result in very minor harm that is less than substantial.

70. The parties agree in the Planning SoCG that there are no heritage grounds for withholding planning permission. It is agreed that the development would cause less than substantial harm to the setting of Bailrigg Farmhouse but that any such harm would be outweighed by the benefits of the proposal. I undertake the heritage balance with the planning balance, later in these decisions.

71. In terms of archaeology, it is likely that due to the sites continued agricultural use, probably since the medieval period, any remains would be of low heritage significance. A suitably worded planning condition on any approvals could require further investigation as part of each phase of development.

Integrity of nearby European protected sites (Appeals A and B)

72. International designations within 10km of the site include Bowland Fells SPA, Calf Hill and Cragg Woods SAC and the Morecambe Bay SAC/Ramsar. One national statutory designation, the Lune Estuary SSSI is within 3km of the Site (it forms part of the Morecambe Bay SPA/SAC/Ramsar).

73. The likely significant effects of the proposed developments on the integrity of the above sites include increased recreational disturbance, disturbance of bird species both within and outside the designated sites as well as water quality impacts. As the competent authority, I must therefore carry out an

appropriate assessment of the effects of the developments as required by the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations)

74. The Council have identified a number of mitigation measures in their Local Plan Habitat Regulations Assessment which are applicable to the appeal developments. These include the provision of homeowner packs containing information about the Morecambe Bay sites and their high ecological sensitivities. In addition, areas of lower sensitivity for recreation would be identified for residents. More than 17 hectares of public open space are proposed in the Appeal A which would provide opportunities for recreation in the immediate vicinity, providing an alternative to the highly sensitive protected sites.

75. Issues of water quality can be addressed through a Construction and Environment Management Plan. This would include measures such as maintaining appropriate buffers to watercourses, physical spill controls, sustainable urban drainage (SuDS) provision and maintenance to manage surface water run-off.

76. The above mitigation measures are intended to avoid or reduce development effects of the proposed developments. They can be ensured through the imposition of appropriate conditions should the appeals be allowed. The schemes would then result in no adverse impact on the integrity of any European site, either alone or in combination with other plans or projects. The developments would therefore comply with paragraph 186 of the Framework and LP1 Policy ENV7 which seek to protect designated sites from development proposals that have a detrimental impact on their designation.

Other Matters

Separation to Bailrigg village

77. The sixth KGP of Policy SG1 seeks the creation of sufficient areas of high-quality open spaces to provide a distinct sense of place and deliver a network of green corridors and walking and cycling routes across south Lancaster to the benefit of the local environment and residents. It goes on to require that such places and routes should make distinct areas of separation between new development and various defined places, including Bailrigg Village. LP1 Policy EN6 explains the intention to provide Areas of Separation to the south of Lancaster as part of the proposed Bailrigg Garden Village.

78. Scotforth Parish Council in their representation make reference to a Landscape Character Assessment Study undertaken to support the Neighbourhood Plan. This outlines a suggested Area of Separation which it states would provide protection from inappropriate development and stop the coalescence of settlements namely Lancaster and Bailrigg and Bailrigg and the University and prevent wider change in the landscape character. Figure 8 of the document illustrates an Area of Separation extending north to the power lines which cross the appeal site, east to the motorway and to the University boundary to the south.

79. The Development Framework Plan and Parameters Plan illustrate the provision of open space including allotments, SuDS features, footpaths and cycle routes new woodland and planting around Bailrigg Village. It extends further to the

north than suggested by the Landscape Study but does not extend as far to the east and south.

80. I bear in mind that Policies SG1 and EN6 are in the context of delivering the Garden Village, of which the appeal scheme is not a part. Nevertheless, I consider that the proposed development provides an appropriate degree of separation to Bailrigg Village meeting the objectives of the above policies.

Highway Issues

81. Local residents have expressed concern the impact on the local highway network. Specifically, concern had been raised about the proposed access alterations to Bailrigg Village, rat running through the proposed development to avoid the A6 and also to safety concerns as a result of the increased traffic generation on Hala Hill.

82. As part of the access strategy, it is proposed to carry out alterations at the western end of Bailrigg Lane, closing it off to vehicular traffic from the A6. This would mean that vehicles to and from the village would be directed to the access road and the route through the Health Innovation Centre on to the A6. Pedestrians and cyclist would be unaffected. A priority-controlled crossroads was originally proposed where the proposed spine road crosses Bailrigg Lane but due to safety reasons the Highway Authority required it to be altered to a priority junction.

83. With regard to the potential for rat running, whilst it is difficult to quantify to what extent this may occur, capacity assessments demonstrate that there would be no capacity issue if this did take place. The spine road through the site is proposed to be a width of 6.5 metres and there would be no highway safety issues.

84. The secondary access at Hala Hill would comprise a priority-controlled junction with a carriageway width of 6.5 metres and a 3-metre-wide footway/cycleway on either side. I acknowledge that this access is close to the bend on Blea Tarn Road. The proposal has been the subject of a Stage 1 Safety Audit at the request of the Highway Authority and no objections to it have been raised. I accept that there may be existing issues with speeding vehicles on Blea Tarn Road, together with limited visibility for vehicles emerging from side roads creating highway safety concerns. Accident data analysis demonstrates that the safety record in the vicinity of the site is acceptable and there is no evidence before me to suggest that the proposal would alter this position.

85. I am satisfied that the proposal not raise unacceptable highway safety issues and that the residual impacts on the highway network would not be severe. In this regard the scheme complies with the Framework and LP2 Policy DM29 which seeks to ensure that highway safety and efficiency is maintained or improved.

Planning Obligation

86. The appellant submitted a section 106 agreement in relation to Appeal A. This secures the provision of affordable housing and financial contributions towards a range of matters including highway improvements, a travel plan, off site sports facilities, on site open space and its management, a community hall and biodiversity net gain. The agreement also includes a blue pencil clause with

regard to a contribution towards health care provision. As the appeal is to be dismissed, it is not necessary for me to consider the obligation any further.

Planning Balance

87. The appeal site in Appeal A forms a sustainable and suitable location for development. It would not prejudice the delivery of Bailrigg Garden Village, given the uncertainty that this proposal will come forward.

88. The Council agrees that it is unable to demonstrate a 5-year supply of housing. In fact, the housing land supply position equates to 2.4 years. Data from the Council's Housing Land Monitoring Report 2023/24 shows a shortfall of 761 dwellings. The delays and infrastructure challenges to the implementation of the proposed Bailrigg Garden Village, have clearly contributed to this position. The proposed development in Appeal A appeal would provide up to 451 new market homes.

89. The situation with regard to the delivery of affordable homes is also acute. Just 287 affordable homes have been delivered in the past 7 years leading to an affordable housing shortfall of 2300 homes. Appeal A would provide up to 193 affordable homes.

90. In light of the significant need for market and affordable homes in Lancaster, I attribute substantial weight to the contribution of Appeal A in this regard.

91. The proposal would also provide around 17.7 hectares of new green infrastructure and open space including the provision of allotments, children's play areas, and off lead dog walking area. The provision of green infrastructure is a requirement of Local Plan Policies SG1, DM27 and DM43, therefore I afford this aspect of the scheme in Appeal A limited weight.

92. Appeal A would also provide a new community hall which the Parish Council would be given the opportunity to manage as well as a retail use within the proposed local centre. This would benefit both new and existing residents in the locality and therefore attracts moderate weight.

93. In terms of economic benefits, I am advised by the appellant that the proposals would bring an estimated construction spend of £76.5 million, supporting both direct and indirect jobs in the area. New residents would spend in the local economy. As some economic benefits will be for a limited time only during construction, overall, I attribute them moderate weight.

94. Turning to environmental benefits, the proposal in Appeal A would create new areas of planting and landscaping as well as SuDS features providing enhancement to biodiversity. Irrespective of my finding in regard to the Sequential Test, I recognise that the scheme proposed in Appeal A would also provide betterment in terms of a reduction in flood risk for those living close to Ou Beck and also downstream. This weighs in favour of the proposed developments.

95. The schemes provide the opportunity for sustainable travel with new pedestrian and cycle routes through the site connecting to the existing network. Whilst this provision is required to meet policy objectives, it would extend and improve connectivity in the area for the benefit of new and existing residents. I attribute these measures limited weight.

96. Against the above, are the adverse impacts of the schemes. In terms of landscape harm, this would be limited as the schemes involve built development on a greenfield site.

97. I have already found that the proposal would cause less than substantial harm to nearby heritage assets, namely Bailrigg Farmhouse. Paragraph 208 of the Framework requires that in these circumstances the harm must be weighed against the public benefits of the proposal. I find that having regard to the benefits outlined above, the harm is outweighed. This position is a matter of agreement between the parties.

98. In light of the lack of a 5-year housing land supply, the titled balance in paragraph 11d) of the Framework is engaged. However, as I have found that a Sequential Test is required and none has been submitted, in line with Footnote 7, this provides a clear reason for refusing the development proposed. The failure to provide a Sequential Test is also in conflict with Policy DM33 of the LP2, Policy SP8 of LP1 and section 14 of the Framework.

99. The appellant has submitted that if I determine that a Sequential Test is required and Footnote 7 engaged, this forms a material consideration and one factor in the planning balance. It is further argued that no harm results from this policy failure, since there is no risk of flooding to the development due to the design, layout and mitigation measures proposed and a betterment would be provided should the development proceed. The parties could not point me to an appeal decision where Footnote 7 had been engaged and yet permission had been granted. Such an approach would be unprecedented and would undermine national flood risk policy.

100. In the case of Appeal A, the overriding consideration is the failure to undertake a Sequential Test. Appeal A conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. As I am dismissing Appeal A, I also dismiss Appeal B.

Conclusion

101. For the reasons given above, and having had regard to all other matters raised, I dismiss these appeals.

Helen Hockenhull

INSPECTOR

APPEARANCES

FOR THE APPELLANT :

Melissa Murphy KC	Instructed by Gladman Developments Ltd

She called

Rob Raspberry BA (Hons) MA MRTPI	Director of Masterplanning, CSA
Matt Travis BSc (Hons) MSc MCIWEM, C.WEM CSci CEnv	Managing Director, Enzygo
Peter Dutton BA (Hons) MCD MRTPI	Planning Director, Gladman
Michael Sutton BSc *	Operations Manager, PagerPower
Tim Russell BEng (Hons) MIHT*	Associate Director, Eddisons

*Available to answer questions in relation to Shadow Flicker and Highway matters

FOR THE COUNCIL

Killian Garvey	Counsel, instructed by Lancaster City Council

He called

Kate Hendry	Principal Planning Officer, Lancaster City Council

INTERESTED PARTIES:

Barbara Walker	Resident
Councillor Sally Maddocks	Ellel Ward Councillor
Dr Paul Tynan	Ellel Ward Councillor
Councillor Andrew Otway	Scotforth East Ward Councillor
Paul Holland	Chair Scotforth Parish Council
John Perrott	Resident
Cllr Tim Hamilton Cox	Scotforth West Ward Councillor
Paul Rasmussen	Resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

ID1	List of appearances for the appellant
ID2	SFRA maps
ID3	Appellant's Opening submissions
ID4	Council's Opening Submissions
ID5	Map showing suggested walking route for site visit
ID6	Statement from Mr Holland Scotforth Parish Council
ID7	Statement from Dr Tynan, Ellel Ward Councillor
ID8	Copies of resident's objection letters read out by Cllr Otway
ID9	Statement from Barbara Walker
ID10	Statement from Cllr Sally Maddocks
ID11	Draft planning obligation
ID12	Draft Condition re Design Code
ID13	Green Living Noise Barrier – Acoustic fencing example
ID14	Email with question from Mr Holland, Scotforth PC dated 18 October 2024
ID15	Consultation response from NHS dated 4 October 2023
ID16	Revised CIL Compliance Statement
ID17	Revised schedule of agreed conditions
ID18	Further draft planning obligation
ID19	Closing submissions from Council
ID20	Closing Submissions from the Appellant
ID21	Completed planning obligation