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| <b>Agenda Item</b><br>A7   | <b>Committee Date</b><br>24 August 2015                                 | <b>Application Number</b><br>15/00714/OUT |
| <b>Application Site</b><br>Land At<br>Bowerham Lane<br>Lancaster<br>Lancashire | <b>Proposal</b><br>Outline application for the erection of 20 dwellings |   |
| <b>Name of Applicant</b><br>Messrs Huddleston                                  | <b>Name of Agent</b><br>Mr Avnish Panchal                               |   |
| <b>Decision Target Date</b><br>21 September 2015                               | <b>Reason For Delay</b>   |   |
| <b>Case Officer</b>  | Mr Philip Megson  |   |
| <b>Departure</b>   | Yes – in respect of Key Urban Landscape                                 |   |
| <b>Summary of Recommendation</b>   | Approval subject to conditions  |   |

## **1.0 The Site and its Surroundings**

- 1.1 The site is a greenfield wedge bounded by Hala Carr Farm to the north, the M6 motorway to the east and Bowerham Lane to the west. The site area is 0.52 hectares. The site slopes from the east (M6 boundary) to west (Bowerham Lane) and is more pronounced towards the west. The site consists of coarse grassland which has been colonised around the edges by blackthorn, gorse, bramble and bracken. There is an existing belt of trees punctuated by an access gate on the boundary to Bowerham Lane. These trees screen the site from existing 2 storey residential properties fronting the western side of Bowerham Lane. There are also existing hedgerows on the boundary to Hala Carr Farm and part of the boundary with the M6 motorway. An existing water trunk main enters the site from under the M6 (at a point opposite the junction of Bowerham Lane and Sandown Road) and exits the site to the south of Hala Carr Farm.

## **2.0 The Proposal**

- 2.1 The outline proposal is for the erection of 20 dwellings. All matters are reserved, including layout and landscaping though indicative proposals have been submitted with the application.

## **3.0 Site History**

- 3.1 An outline planning application for residential development comprising 20 market houses (10 2-bedroom and 10 3-bedroom dwellings) was submitted by the applicant in September 2014 (14/00960/OUT). The application was withdrawn in February 2015 due to an absence of detail on the line and depth of the trunk main and other issues arising from the consultation responses.

| <b>Application Number</b> | <b>Proposal</b>  | <b>Decision</b>    |
|---------------------------|--|--------------------|
| <b>14/00960/OUT</b>       | Outline planning application for residential development | Withdrawn          |
| <b>1/89/0118</b>          | Outline planning application for residential development | Rejected on appeal |

## **4.0 Consultation Responses**

4.1 The following responses have been received from statutory and non-statutory consultees:

| <b>Consultee</b>  | <b>Response</b>   |
|---|---|
| <b>Natural England</b>                                      | Statutory nature conservation sites – no objection<br>Protected species – apply Natural England’s Standing Advice to the application.   |
| <b>Highways England</b>                                     | Any grant of consent should be conditioned to ensure that the safety and integrity of the M6 motorway is maintained; and ensure that safe access for maintenance of the motorway boundary fence and landscape planting is preserved.  |
| <b>County Highways</b>                                      | No objections in principle. Have material concerns relating to pedestrian/vehicular access arrangements; the route of substantial water mains apparatus; method of surface water discharge; and implementation of a range of off-site highway improvement works. To address these concerns there should be full compliance with the adopted car parking standards 2011–2026; full regard to the water trunk main easement regulations; liaison with the County Council’s flood risk management organisation regarding appropriate methods of surface water discharge; and a requirement for the developer to provide a transport contribution towards the implementation of a range of transport improvement measures (pedestrian footway, pedestrian refuge in the vicinity of Bowerham Lane and Sandown Avenue, relocated street lighting and upgraded bus stop) considered necessary, reasonable and directly related in scale and kind such that the consequences of pedestrian / vehicular movements through construction of the development on the surrounding highway network could be suitably mitigated. |
| <b>Lancashire County Council Planning &amp; Development</b> | LCC Education Team have not requested a planning contribution.  |
| <b>Environmental Health</b>                                 | The proposed development warrants specific planning controls relating to noise, dust control, contaminated land and bunding of tanks to prevent adverse impacts.  |
| <b>Planning &amp; Housing Policy Team</b>                   | The resubmission fails to recognise the Key Urban Landscape designation. Development in Key Urban Landscapes would not ordinarily be supported unless it can be shown that the application would preserve the open nature of the area and character and appearance of its surroundings and where the balance of considerations may lead to its support. The Council’s lack of a five year housing supply is of course one such consideration which could lead to the favourable consideration of this application. Significant consideration should also be given to the criteria of Policy DM35 ‘Key design principles’ and the extent to which this application is compatible with these criteria especially in relation to residential amenity and noise and air quality issues.   |
| <b>Tree Protection Officer</b>                              | The development includes proposals to remove in part hedgerows on Bowerham Lane frontage and wholly within site. Mitigation in the medium to long term with replacement planting. Extensive new planting would be beneficial along the eastern and southern aspect to provide essential noise abatement, greening and visual screening between the site and the M6 motorway to the east. All other on and off site trees are to be retained and protected.  |
| <b>United Utilities</b>                                     | A large diameter trunk main runs straight through the proposed site. UU require 24 hour access for operating and maintaining it and will not permit development in close proximity to the main. This main requires an easement of 6 metres. The developer should consider drainage options in the following order of priority:<br>a) an adequate soak away or some other adequate infiltration system;<br>b) a watercourse; or<br>c) a sewer (approval must be obtained from United Utilities).   |
| <b>Lancaster Civic Society</b>                              | Concerns expressed about the density of the proposed development; no information relating to design of the individual units; noise and traffic implications arising from the proposed development.  |

## **5.0 Neighbour Representations**

5.1 At the time of writing a total of 20 representations have been received from neighbouring residents.

All the representations raise objection to the proposed development. The main grounds for objection include:-

- Loss of greenfield site/priority should be given to brownfield sites.
- Loss of amenity.
- Increase in noise.
- Increase in traffic, impact on road safety, parking issues and traffic headlight issues relative to existing residential properties on Bowerham Lane due to elevation of site.
- Overlooking of existing residential properties (due to slope).
- Adverse impact on wildlife.
- Destruction of hedgerows.
- Increased risk of flooding through run-off.
- Proximity to the motorway creating amenity and health issues for occupants of the development.
- Water trunk main 10 metres easement.

## **6.0 Principal National and Development Plan Policies**

- 6.1 National Planning Policy Framework (NPPF):  
Paragraphs 7, 14 and 17 – Sustainable Development and Core Principles  
Paragraphs 32 - Access and Transport  
Paragraphs 49 and 50 - Delivering Housing  
Paragraphs 56, 58 and 60 – Requiring Good Design

### Saved Policies of the Lancaster District Local Plan

E27 - Woodland Opportunity Areas  
E31 - Key Urban Landscape

### Core Strategy

SC1 - Sustainable Development  
SC2 - Urban Concentration  
SC4 - Meeting the District's Housing Requirements

### Development Management DPD

DM28 - Development and Landscape Impact  
DM29 - Protection of Trees, Hedgerows and Woodland  
DM35 - Key Design Principles  
DM36 - Sustainable Design  
DM37 - Air Quality Management and Pollution  
DM41 - New Residential Dwellings

### Other relevant material considerations

Draft Local Plan For Lancaster District 2011 – 2026  
2015 Housing Land Supply Statement (July 2015)

## **7.0 Comment and Analysis**

- 7.1 The key material considerations arising from this application are:
- Previous application / appeal decision
  - Principle of development / housing supply
  - Highway Safety
  - Trunk Water Main
  - Surface Water Run-off
  - Residential Amenity
  - Landscape and Biodiversity Impact

### 7.2 Previous Application / Appeal Decision

- 7.2.1 An appeal against the refusal of outline planning permission for residential development of 50–60 detached houses of 3 and 4 bedrooms in a mix of housing types on land adjacent to Hala Carr Farm, Bowerham Lane was held in January 1990. The Inspector considered the principal issue related to the effect of the proposed residential development on the character and appearance of this area of open land lying between Bowerham Lane and the motorway. The Inspector considered the appeal in the context of the then Lancaster Local Plan adopted in January 1989: the site was in an Area of Special Landscape (Policy 4), which will normally be conserved and land will not normally be taken for development (Policy 5). As the site is on the fringe of the built up area, it was also identified as a Priority Planting Area for trees (Policy 10). The Inspector reached the *“firm conclusion that the principle of residential development on this open site would be wholly unacceptable”*. In the Inspector’s judgement *“the steeply sloping site forms a critically important visual break between the urban area and the attractive countryside to the east to which it is physically linked by both road and footbridges across the motorway. However well designed the residential scheme may be, in my opinion development on this elevated and locally prominent site would be an unduly intrusive extension of the built-up area which would unacceptably dominate the neighbouring residential properties.”*
- 7.2.2 Whilst Policies 4, 5 and 10 of the 1989 Local Plan have been superseded and carry no material weight in the consideration of this application, the themes of protecting the site from development and tree planting were carried forward into the Lancaster Local Plan (adopted in 2004 and reviewed in 2008). Saved Policy E27 identifies the Lancaster Eastern M6 corridor as a Woodland Opportunity Area and saved Policy E31 identifies Key Urban Landscaping Areas, including the application site, where development would only be permitted if it preserves the open nature of the area and the character and appearance of its surroundings (see section 7.8 below).
- 7.3 Principle of Development / Housing Supply
- 7.3.1 The site lies on the edge of Lancaster with existing residential development on the western and northern boundaries of the site. The M6 forms the eastern boundary of the site. The site is identified as Key Urban Landscape and Woodland Opportunity Area in the saved policies of the Lancaster District Local Plan.
- 7.3.2 In terms of general housing need, the 2015 Housing Land Supply Statement (July 2015) sets out that only 3.3 years of housing supply can be demonstrated, with a persistent undersupply of housing over the last 11 years. As such, a 5 year supply of housing land cannot currently be demonstrated. Paragraph 49 of the NPPF sets out that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Development on the edge of Lancaster is considered to be sustainably located and as such would provide an important contribution towards housing supply in the District in a location that can be supported in principle.
- 7.3.3 The application proposes 8 affordable houses. This complies with the target of up to 40% affordable housing on greenfield sites set by Policy DM41 of the DM DPD.
- 7.4 Highway Safety
- 7.4.1 County Highways’ concerns are documented in Paragraph 4.1.
- 7.4.2 Access by residents of the proposed development to an immediate range of public services (community shops, post office, doctor’s surgery, bank, petrol station, limited public transport services) and in particular an area of significant employment, is likely to be highly reliant on the use of private vehicles and to a lesser extent availability of appropriate public transport services. It is essential that development on the site complies in their entirety with Lancaster City Council car parking standards (2011–2026) namely: the provision of two off-street spaces for 2/3 bedroom properties and three off-street spaces for 4 and more bedroom properties. For an external forecourt parking area to be considered a useable parking space its maximum dimensions should be 2.5 x 5.0 metres while minimum covered parking facility guidelines stipulate 3m x 6m there-by allowing for secure cycle storage as well as sufficient space for the parking of an average sized vehicle.

- 7.4.3 The water trunk main is subject to a 10 metres easement restricting substantial construction activities within a specific distance of such. The applicant will need to demonstrate that the parking requirements could be accommodated in full (see section 7.5 below).
- 7.4.4 There is a presumption that a development of this scale will lead to an increased frequency of pedestrian/vehicular movements along Bowerham Lane and to a lesser extent Sandown Road and Hala Hill to access public transport services. The construction of a pedestrian refuge on Bowerham Lane would assist in the creation of a safe walking route to such. Situated in the immediate vicinity of the site and Sandown Road, it would also serve as a protective feature for right turning vehicles from Bowerham Lane onto Sandown Road. Using methodology outlined in Lancashire County Council's *Planning Obligations Policy Document*, there would be a requirement for the developer to provide a transport contribution towards the implementation of a range of transport improvement measures considered necessary, reasonable and directly related in scale and kind such that the consequences of pedestrian/vehicular movements on the surrounding highway network could be suitably mitigated. As a condition of this outline application, County Highways considers it essential that funds are sought to implement certain specific off-site transport related improvement works as a means of mitigating the consequences of pedestrian/vehicular movements over the surrounding public highway network namely:
- Setting back of boundary hedging along the site's frontage with Bowerham Lane sufficient to allow for the construction of a 2 metre-wide length of pedestrian footway subject of a dedication agreement with the Highway Authority under the provision of Section 38 of the Highways Act 1980. Such would formalise driver forward visibility requirements while aiding pedestrian access along the public highway;
  - Relocation of existing street lighting equipment and upgrade where appropriate – such is particularly relevant along the sites frontage and in the vicinity of Bowerham Lane/Hala Hill/Sandown Road junctions;
  - Upgrade of bus stop (Bentham Rd/Hala Hill) to Lancashire County Council's quality bus stop standard; and,
  - Construction of a pedestrian refuge facility on Bowerham Lane in the vicinity of its junction with Sandown Road. Such would also serve as a protective feature for right turning vehicles onto the same.
- 7.4.5 The range of off-site highway improvement works outlined above are considered essential to make the application acceptable in highway terms. Without their inclusion in any prospective consent there is the potential for the consequences of a development of this nature to adversely affect the operation of surrounding lengths of the public highway network increasing the likelihood of risk to all of its users.
- 7.4.6 Highways England has concerns regarding the boundary interface between the development site and the motorway. The site in question lies adjacent to the western boundary of the M6 motorway. The development will have no traffic impact upon the Strategic Route Network. However, given the proximity of the development site to the motorway, Highways England formally recommends that conditions should be applied to any grant of planning consent to ensure that the safety and integrity of the M6 motorway is maintained; and ensure that safe access for maintenance of the motorway boundary fence and landscape planting is preserved.
- 7.4.7 It is considered that issues relating to Highway Safety and related matters can be addressed by the use of planning conditions.

## 7.5 Water Trunk Main

- 7.5.1 A large diameter trunk main runs straight through the proposed site. United Utilities requires 24 hour access for operating and maintaining the main. United Utilities will not permit development in close proximity to the main, which itself requires an easement of 6 metres (the applicant must comply with United Utilities standard conditions for work carried out on, or when crossing easements). The Applicant has submitted sections which show the relationship of the proposed dwellings to the main. The sections show that the proposed development can be accommodated on the site while maintaining the easement and, for the avoidance of doubt, the indicative layout shows that there would be no built development within the easement.

## 7.6 Surface Water Run-off

- 7.6.1 In accordance with the NPPF and Building Regulations, the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. A hierarchy must be investigated by the developer when considering a surface water drainage strategy, based on the following order of priority:
- a) an adequate soak away or some other adequate infiltration system, (approval must be obtained from local authority/building control/Environment Agency); or, where that is not reasonably practical
  - b) a watercourse (approval must be obtained from the riparian owner/land drainage authority/Environment Agency); or, where that is not reasonably practicable
  - c) a sewer (approval must be obtained from United Utilities).
- 7.6.2 United Utilities has no objection to the proposal subject to a condition requiring a scheme for the disposal of foul and surface waters to be submitted to and approved prior to the commencement of development.

## 7.7 Residential Amenity

- 7.7.1 Policies DM35 'Key Design Principles', Policy DM36 'Sustainable Design' and Policy DM41 'New Residential Development' of the Development Management DPD are all relevant. These policies seek to ensure that development is as sustainable as possible and that new development makes a positive contribution to the surrounding landscape and townscape of the area. Criteria relating to the protection of residential amenity and minimisation of noise and air quality impacts are relevant to this application given its proximity to the M6 motorway.
- 7.7.2 In respect of noise, the Environmental Health Officer considers that the submitted Acoustic Survey and Assessment (dated October 2014) demonstrates that the internal design criteria specified within BS 8233:2014 can be met through the use of upgraded glazing units and provision of a passive ventilation system. Guideline noise values for external amenity areas adopted by BS8233:2014 and recommended World Health Organisation Guidelines for Community Noise 1999 can be met with provision of acoustic fencing. These requirements are to be secured by condition.
- 7.7.3 Dust emissions during construction and the need, if necessary, to remediate contaminated land or prevent the contamination or pollution of land are also to be secured by condition.
- 7.7.4 The layout shows that the garden to each house is located at the rear of the property. As forecourt parking is situated at the front of each house, the issue of overlooking of neighbouring houses from garden areas is not considered to be an issue on this particular scheme.
- 7.7.5 It is accepted that the proposal will alter the character of the locality, a point that has been emphasised by some of the residents who have opposed the application. However, even at this outline planning stage where the plans are indicative, there is scope for a scheme that is acceptable in terms of design and landscaping which can soften the appearance of the dwellings. Coupled with the proposed woodland/ecological buffer (see section 7.8 below, and particularly paragraph 7.8.5 overleaf), there is potential for this relatively modest form of development to bring some visual benefits to the locality. Given this, there is considered to be no grounds for resisting the development in terms of visual amenity.
- 7.7.6 Some of the correspondence received has also highlighted potential for negative impacts such as overlooking or overshadowing. Given that Bowerham Lane would separate the new dwellings from existing properties, and that the proposed properties are (indicatively) set back from Bowerham Lane to incorporate an area of front garden, Officers do not share these concerns.

## 7.8 Landscape and Biodiversity Impact

- 7.8.1 The site is located on the edge of Lancaster within land currently allocated as Key Urban Landscape and a Woodland Opportunity Area on the Local Plan Proposals Map. Both designations remain relevant and important considerations for the determination of this application.

- 7.8.2 Development Management DPD Policy DM28 'Development and Landscape Impact' states the continued appropriateness of this designation was reviewed by the Council via its 'Review of Key Urban Landscape Allocations in Lancaster District' Study (Woolerton Dodwell, 2012). The study concluded that Key Urban Landscapes continued to perform an important role in defining the character of the District. Individual assessments were undertaken for each of the identified Key Urban Landscapes in the District. In relation to this particular site the study recognised that this area of the District forms a green buffer between the M6 and residential properties on the eastern fringes of Lancaster.
- 7.8.3 Policy E27 'Woodland Opportunity Areas' of the adopted Lancaster District Local Plan remains relevant. This states that within identified areas the Council will seek to establish new areas of woodland allowing where practical for public access and the protection and enhancement of nature conservation interests. It goes on to state that development which would prejudice the establishment of new woodland areas will not be permitted. This policy is supplemented by Policy DM29 'Protection of Trees, Hedgerows and Woodlands' in the Development Management DPD which gives further support to the protection of trees and hedgerows and encourages additional planting.
- 7.8.4 Therefore the proposal is allocated on land currently identified for protection from development. It is recognised that development may be possible within these allocations where it can be shown to preserve the openness of the area and the character and appearance of its surroundings and, in the case of woodland opportunity areas, it would not prejudice the establishment of new woodlands.
- 7.8.5 The application seeks to identify a new native woodland area along the M6 which whilst not open to the public would serve to enhance nature conservation interests and add to wider ecological corridors in this area of the District. Given the site's proximity to the M6 a woodland management plan would be a good opportunity through its selection of tree species to contribute to improving the local air quality, provide a visual screen between the motorway and the proposed development and demonstrate expected net gains in biodiversity across the site. This resubmission application includes:
- a buffer zone 2 metres wide adjacent to the motorway boundary fence in which there would be no planting or obstruction of the surface of the site so as to establish a buffer zone for maintenance, as shown in drawing reference GA1889-SP-02 provided by the applicant;
  - a 2 metres wide strip from Bowerham Road in which there would be no planting or obstruction of the surface of the site to give access to the buffer zone referred to above; and
  - a 2 metres wide strip along the Bowerham Road frontage to allow the construction of the pedestrian footway along the frontage with Bowerham Lane.

A detailed landscape scheme would be required with an associated 10 year maintenance regime.

- 7.8.6 While the footprint of the proposed development would reduce the area of the 'Woodland Opportunity Area' it is considered that it will facilitate, not prejudice, the creation of a new woodland, with associated benefits for wildlife when compared to the current status of the land.

## **8.0 Planning Obligations**

- 8.1 The applicant has offered 40% provision of on-site affordable housing provision. This is in line with the Council's Policy DM41, subject to a 50:50 split between intermediate housing and social rent. A legal agreement must be entered into to secure its provision.

## **9.0 Conclusions**

- 9.1 The previous appeal decision relates to a larger development (50 – 60 dwellings) compared to up to 20 dwellings under the current planning application. The appeal was considered in the context of local plan policies that have been superseded, which carry no material weight in the consideration of this application.
- 9.2 Concerns about the proposed pedestrian/vehicular access arrangements; the route of water trunk main; the method of surface water discharge; and implementation of a range of off-site highway improvement works can be addressed by planning conditions and the provision of specific off-site transport-related improvement works.

- 9.3 Given the proximity of the site to the M6 motorway, noise minimisation and air quality impacts to protect the amenity of the future occupants of the proposed houses can be addressed by measures secured by condition. Dust emissions during construction and the need, if necessary, to remediate contaminated land or prevent the contamination or pollution of land can also to be secured by condition.
- 9.4 The indicative layout shows that the garden to each house is located at the rear of the property. As forecourt parking is situated at the front of each house overlooking neighbouring houses from garden areas is not considered to be an issue.
- 9.5 The proposal development, which is in a location identified as a woodland opportunity area, includes a new native woodland area along the M6. The woodland, while not open to the public, would serve to enhance nature conservation interests and add to wider ecological corridors in this area of the District. Given the site's proximity to the M6, woodland contribute to improving the local air quality and provide a visual screen between the motorway and the proposed development.
- 9.6 Subject to the proposed conditions referred to in the report, outline permission can be granted.

### **Recommendation**

That Outline Planning Permission **BE GRANTED** subject to a legal agreement requiring 40% provision of affordable housing (50:50 split between intermediate housing and social rent) and the following conditions:

1. Outline planning permission – all matters reserved.
2. Pedestrian footway along the site's frontage with Bowerham Lane.
3. Visibility splay
4. Off-site highways improvement works (upgraded bus stop, street lighting, pedestrian refuge)
5. Submission and approval of a construction method statement prior to development (including wheel-washing facilities)
6. No development or planting adjacent to the M6 motorway embankment
7. Mitigation of noise from the motorway for the benefit of those occupying the proposed dwellings
8. Submission and approval of a scheme for foul and surface water drainage prior to development
9. Removal, containment or otherwise of any contaminants
10. Controls over any import of soils to avoid introduction of contaminants
11. Containment of spillage from tanks during construction
12. Details of hard and soft landscaping
13. Submission of Arboricultural Method Statement and 10 year (minimum) Landscape Management Plan
14. Removal of permitted development rights (hardstandings and vehicular access – i.e. to prevent loss of proposed front garden to hard surfaces)

### **Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015**

In accordance with the above legislation, the City Council can confirm that, for the reasons stated in the report, this proposal departs from policies within the Development Plan. However, taking into account the other material considerations which are presented in full in the report, it considered that on this occasion these outweigh the provisions of the Development Plan, and in this case the proposal can be considered favourably.

In reaching this recommendation the local planning authority and the applicant have positively and proactively addressed the issues to enable permission to be granted subject to conditions.

### **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

### **Background Papers**

None