

Appeal Decision

Inquiry held on 23-24 May 2017

Site visit made on 24 May 2017

by Matthew Birkinshaw BA(Hons) Msc MRTPI

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

Decision date: 26 September 2017

Appeal Ref: APP/M0933/W/16/3156343

Bronte House, Crookenden House and Garner House, Lower School, Casterton, Carnforth, Cumbria, LA6 2SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Eight Property Limited against the decision of South Lakeland District Council.
 - The application Ref SL/2016/0016, dated 8 January 2016, was refused by notice dated 24 June 2016.
 - The development proposed is the conversion of former boarding school to provide 20 dwellings (net increase of 17 dwellings).
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of former boarding school to provide 20 dwellings (net increase of 17 dwellings) at Bronte House, Crookenden House and Garner House, Lower School, Casterton, Carnforth, Cumbria, LA6 2SA in accordance with the terms of the application, Ref SL/2016/0016, dated 8 January 2016, subject to the conditions in the schedule at the end of this decision.

Procedural Matters

2. Following the refusal of planning permission the Yorkshire Dales National Park was extended to include the appeal site. Despite now falling within the National Park, the appeal is made against South Lakeland District Council's decision to refuse planning permission. The Council also confirms that until relevant policies are updated to reflect this change, the *South Lakeland Local Development Framework Core Strategy* continues to apply in the 'extension areas'. In the absence of any evidence to dispute this position, I have taken the Core Strategy into account as part of the development plan for the area.
3. Shortly before the Inquiry the parties submitted a Statement of Common Ground which covered viability, heritage and affordable housing issues. At this stage the appellant changed their viability calculations, which had not been previously seen by the Council. Nevertheless, viability was not part of their case and neither party called witnesses to give evidence on such matters. This was confirmed by earlier correspondence.¹ The Council was also provided with an opportunity to respond and submitted a rebuttal note at the Inquiry. As a result, they were not disadvantaged by the new information.

¹ ID3

Main Issue

4. The main issue is whether or not the proposal would make adequate provision for affordable housing, having particular regard to the application of vacant building credit ('VBC').

Reasons

5. The appeal site comprises a group of buildings last used as boarding school accommodation. In 2013 Casterton School merged with Sedbergh School leaving Bronte House, Crookenden House and Garner House redundant. As part of the proposal the buildings would be converted into 20 houses and flats.
6. Core Strategy Policy CS6.3 states that on qualifying sites planning permission for new dwellings, including through the conversion of existing buildings, will be permitted provided that no less than 35% of the properties are affordable. This requirement is reiterated in Policy CS5 which relates to the eastern part of South Lakeland where the appeal site is located. Both policies are broadly consistent with paragraph 50 of the National Planning Policy Framework ('the Framework') which seeks to deliver a wide choice of high quality homes and widen opportunities for home ownership.
7. The need for affordable housing in the area is not disputed. The Statement of Common Ground confirms that the total requirement across South Lakeland is 687 new affordable homes per year. Of this total, 186 affordable homes are required in the 'Rural Kendal Housing Market Area' as defined by the *Strategic Housing Market Assessment Update*. The *Council Plan 2014-2019* also seeks to provide 1,000 new affordable homes with an emphasis on rented properties.
8. At the planning application stage the parties decided that Casterton would not be a suitable location for affordable housing due to its limited services, facilities and access to public transport. Combined with the need to carry out a high quality, sensitive, heritage-led restoration the Council specified that a financial contribution towards off-site provision would be more appropriate. Following appraisal of the scheme the Council's position is that £340,852 should be provided towards affordable housing.
9. However, the Court of Appeal order, dated 13 May 2016², gave legal effect to the policy set out in the Written Ministerial Statement dated 28 November 2014 (the 'WMS'). Entitled *Support for small scale developers, custom and self-builders* the WMS confirms that a financial credit, equivalent to the existing gross floorspace of any vacant buildings brought back into lawful use, should be deducted from the calculation of affordable housing contributions sought from relevant development schemes.
10. Further advice is contained in the updated National Planning Practice Guidance (the 'PPG').³ It states that the intention of the policy is to incentivise brownfield development, including the reuse of empty and redundant buildings. Where a vacant building is brought back into a lawful use the PPG confirms that the developer should be offered a 'credit'. The existing floorspace of the vacant buildings is therefore 'credited' against the floorspace of the new development.

² R(West Berkshire District Council and Reading Borough Council) v. Secretary of State for Communities and Local Government [2016] EWCA Civ 441

³ Paragraph: 022 Reference ID: 23b-022-20160519

11. In this case the appeal scheme involves the conversion of vacant buildings with no overall increase in floorspace. As such, according to the WMS and the PPG, a 100% 'credit' should apply.
12. The main reasons why the Council has not applied the VBC are twofold. Firstly, it is argued that the scheme could contribute £340,852 towards affordable housing and still remain viable. The incentive offered by VBC is therefore not necessary to bring the site forward for housing. Secondly, the Council points to the 'acute' need for affordable housing locally, with evidence demonstrating that parts of South Lakeland have the highest ratio of income to house prices in North West England.⁴ It is also stated that windfall sites have only provided on average 32% affordable housing, which is below the 35% required by the Core Strategy.
13. However, there is nothing within the WMS or the PPG which requires an assessment of viability to be carried out as a pre-requisite to applying VBC. This was agreed by Mr Fawcett at the Inquiry. Instead, the WMS confirms that the Government's intention is to boost development on brownfield land and provide consistency with the Community Infrastructure Levy – where a credit applies to buildings that are to be demolished or retained. Based on the evidence provided it is therefore not the case that VBC should only apply to unviable proposals in order to facilitate their delivery. Likewise, there is no 'needs' test to consider. Although the Council has sought to introduce the concept of viability through its Interim Housing Policy Position statement⁵, this has not been examined or formally adopted as part of the development plan. In addition, the statement does not apply to the extended areas of the Yorkshire Dales National Park. It therefore has no relevance to the appeal site.
14. The Council refers to the PPG which states that to incentivise bringing brownfield land back into use, local authorities should take a flexible approach in seeking levels of planning obligations and other contributions to ensure that sites do not become unviable.⁶ With this in mind Core Strategy Policy CS6.3 permits lower affordable housing provision based on viability. At the Inquiry it was suggested that this provides the 'incentive' to bring forward brownfield sites, and that applying VBC to a financially viable scheme represents a form of 'super-incentive'. However, Policy CS6.3 states that "*Exceptionally, a lower requirement for affordable housing will be acceptable...*" (my emphasis). It is therefore intended to reflect those specific, exceptional circumstances where schemes are unable to provide 35% affordable housing. It is not a mechanism aimed at encouraging the reuse of vacant buildings in the same way as the WMS and the PPG, both of which post-date the 2010 Core Strategy.
15. In reaching this view I have taken into account the conclusions of another Inspector who found that "*...a detailed assessment of viability should not simply be cast aside in favour of the straight application of the VBC*".⁷ But the case referred to by the Council concerned the provision of 20 affordable properties in a location away from where the main bulk of affordable housing was being delivered. The Inspector also found a partially implemented planning permission for a similar development highly material, and regarded the appellant's approach as opportunistic, a matter which I return to below. The

⁴ ID6

⁵ CD7

⁶ Paragraph: 026 Reference ID: 10-026-20140306

⁷ Ref APP/N1920/W/16/3162337, dated 27 April 2017

circumstances were therefore materially different to the proposal before me, which I have considered on its merits having regard to the evidence provided. For these reasons I have only attached very limited weight to the Inspector's decision at Patchetts Equestrian Centre.

16. It is undisputed that there is a need for affordable housing locally. This is primarily due to the attractive location of the area, demand for holiday homes and proximity to the M6. The scale of demand also exceeds the amount of affordable housing likely to be delivered on windfall sites and allocations. Nevertheless, when assessing the likely impact of VBC, interrogation of windfall completions demonstrates that the WMS would have only resulted in 29 fewer affordable homes being built over the past 5 years, or roughly 11%. Mr Fawcett accepted that this was a 'small' amount.
17. Furthermore, within the Small Villages, Hamlets and the Open Countryside only around 25 dwellings per year are expected to come forward on windfall sites, with roughly 8.5% on previously developed land. When considering that not all previously developed sites would attract VBC (only sites with qualifying buildings), its effect on the delivery of local affordable housing in villages such as Casterton would therefore be negligible. South Lakeland remains on track to deliver the Council Plan target of 1,000 new affordable homes by 2025, with the latest information suggesting that no intervention is currently required.⁸ Based on the evidence provided I am therefore not convinced that the "loss" of £340,852 would seriously undermine the Council's objectives concerning affordable housing delivery.
18. VBC is not intended to apply unilaterally. The PPG advises that local planning authorities should have regard to the intention of national policy. In doing so, 'it may be appropriate' to consider whether a building has been made vacant for the purposes of development, or whether it is covered by an extant or recently expired planning permission for the same or substantially the same development. At the Inquiry the parties suggested that the final caveat sought to prevent scenarios where approved schemes could be simply resubmitted to circumvent affordable housing contributions.
19. This is directly relevant to the appeal site, which benefits from full planning permission for effectively the same development granted by the Yorkshire Dales National Park Authority in December 2016.⁹ As part of the approved scheme the appellant signed a Unilateral Undertaking committing to provide £200,000 towards affordable housing. Subject to discharging pre-commencement conditions there is nothing to prevent the proposal from coming forward.
20. However, detailed evidence was given by Mr Dawson at the Inquiry which suggests that this is not a case of simply re-submitting a planning application in a bid to negate the need for affordable housing. Instead, following the refusal of planning permission the appellant opened dialogue with the Yorkshire Dales National Park Authority as the site would fall within the National Park's administrative boundary from 1 August 2016. This led to resubmission of the planning application on the understanding that, in the absence of any adopted policy or guidance concerning VBC, the Authority would rely on the PPG.¹⁰

⁸ CD24

⁹ CD15

¹⁰ ID7

21. During the determination of the planning application the National Park Authority adopted the same stance as South Lakeland, namely, that a financial contribution would be required as the scheme could viably provide one. In order to break the impasse the Authority requested the same amount as initially offered to South Lakeland District Council (£163,000). Following further re-appraisal of the scheme a contribution of £200,000 was requested.
22. This left the appellant in a difficult position. Funding had been secured from a commercial lender to complete the purchase of Garner House and Crookenden House, with support in principle to buy Bronte House. In order to access the funds and complete the purchase planning permission had to be in place for the whole site before the offer expired on 18 December 2016. The terms of the contract with the vendor also required completion by 15 December 2016.
23. Without having a planning permission in place for the whole site the appellant would have been unable to access the funds to complete the purchase. In doing so, the appellant would also have been unable to fulfil the terms of their contract with the vendor. When asked about the potential implications of this outcome Mr Dawson made it clear that the company would have lost their sizeable deposit, been subject to potential litigation from the vendors and seriously undermined their ability to obtain funding for other projects in the future. The Council do not contend that the situation was critical for a small-scale developer, and could have forced the appellant company into receivership. In an effort to avoid this situation and secure a planning permission the Unilateral Undertaking was completed on 13 December 2016.
24. It is therefore clear that the scheme has not simply been resubmitted in an attempt to circumvent affordable housing provision. Instead, the appellant's position concerning the application of VBC was clearly set out before re-applying to the new local planning authority. Evidence submitted and scrutinised at the Inquiry demonstrates that due to the amount of time that had already elapsed the appellant had little option but to reluctantly sign the Unilateral Undertaking and secure planning permission in order to complete the purchase of the site. This is a materially different situation to the one referred to above at the Patchetts Equestrian Centre.¹¹
25. In summary therefore, by failing to make any provision for affordable housing the proposal conflicts with Core Strategy Policies CS6.3 and CS5. On the other hand, national planning policy and guidance have emerged since adoption of the Core Strategy in 2010 which specifically seek to incentivise the reuse of vacant buildings and support small and medium-scale developers by applying a 'credit' against the floorspace of buildings brought back into use. The appeal proposal is synonymous with this approach, which weighs heavily in its favour.

Other Material Planning Considerations

26. The decision notice cites conflict with Core Strategy Policy CS1.2 as the proposal does not constitute 'infilling' or 'rounding off' within a Small Village or Hamlet. However, at the Inquiry Mr Fawcett accepted that the principle of development is acceptable (subject to providing affordable housing) because it involves the reuse of existing buildings. Based on the evidence provided I agree. The proposal accords with the aims and objectives of Policy CS1.2 which states that priority will be given to reusing buildings and previously

¹¹ Ref APP/N1920/W/16/3162337, dated 27 April 2017

- developed land, with a target of 50% for all new development. It also accords with paragraph 55 of the Framework which permits the re-use of redundant buildings where development enhances the immediate setting.
27. Situated immediately to the south of the appeal site is the Grade II listed 'Casterton Old Hall'. The special interest of the building is derived from its age and architectural features. The property dates back to the 17th century and amongst other things, contains double-chamfered mullioned windows and a fireplace with a Tudor-arched opening from circa.1530-40.
 28. The appellant's Heritage Statement suggests that Crookenden House and Garner House appear to have been used historically as agricultural buildings associated with Casterton Old Hall. Whilst substantially altered internally, their agricultural form is still largely intact and they have a close physical and functional relationship with Casterton Old Hall. So does Bronte House, which was a later addition, likely built as domestic accommodation before becoming a school. Due to their proximity and historic relationship the buildings on the appeal site are therefore defined as non-designated heritage assets.
 29. By primarily reusing the existing building fabric, retaining key features such as the arched opening in Crookenden House and limiting alterations within the curtilage of the buildings the setting of Casterton Old Hall would be preserved. Some very limited harm to the historic significance of the appeal buildings and to Casterton Old Hall would be caused by new additions such as porches to Garner House and the creation of gardens. But this would be very minor. The functional appearance of the former barns would still be evident and elsewhere the removal of modern uPVC windows would significantly improve the front elevation of Bronte House. The less than substantial harm to the significance of the designated and non-designated heritage assets would therefore be far outweighed by bringing the buildings back into use. This view is shared by the main parties as set out in the agreed heritage position statement.
 30. Passing through the site is a Public Right of Way ('PROW') which runs roughly north/south adjacent to Garner House. The route would not be affected by new development. Taking into account the previous use of the buildings, and considering that vehicles using the small car park in the north east corner would be travelling at very slow speeds, there would be no significant risk to pedestrian safety subject to appropriate road markings. Along with the management of the PROW during the construction phase this could be adequately controlled and enforced through the use of planning conditions. Subject to these provisions the Council's Highways Officer has not advised that further upgrades to footpaths in the village would be necessary, nor I am aware of any being required as part of the already approved scheme.
 31. Elsewhere the submitted plans illustrate the use of timber post and rail fencing with beech hedges. Although drystone walls may also be suitable, the Council has not raised any concerns regarding proposed boundary treatments. Based on the evidence provided I find no reasons to disagree. Subject to the use of high quality materials, which could also be secured by condition, the boundaries would not have a significantly urbanising effect.
 32. Finally, only a small bedroom window at first floor level in property 1 would overlook the boundaries of units 5-8. As a result, no harmful loss of privacy would occur. Based on the plans provided the standard of living accommodation for potential future occupiers would be adequate.

Balancing Exercise

33. The proposal conflicts with Core Strategy Policies CS6.3 and CS5 concerning the provision of affordable housing. Decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The Court of Appeal Judgement¹² confirms that the WMS does not countermand or frustrate the effective operation of this principle, as set out in the 2004 Planning and Compulsory Purchase Act.
34. However, in this particular case there are several material considerations which justify departing from Core Strategy Policies CS6.3 and CS5.
35. Firstly, the Core Strategy was adopted in 2010. In November 2014 the WMS confirmed that a financial credit, equivalent to the existing gross floorspace of any vacant buildings brought back into any lawful use should be deducted from the calculation of affordable housing contributions. By lowering the cost of construction the WMS seeks to encourage development on brownfield sites and diversify the housing market by assisting small and medium-sized developers. The proposal is synonymous with this approach. It would provide 17 additional dwellings in a rural area by sensitively re-using existing buildings. The VBC would provide a tangible incentive to bring the site forward for development, consistent with one of the Framework's Core Planning Principles which seeks to encourage the effective use of land by reusing brownfield land.
36. Secondly, although the Council has sought to introduce an 'interim' policy to provide certainty to decision-makers, developers and local communities, it has not been examined or adopted as part of the development plan. Furthermore, it does not apply in Casterton. Accordingly, it does not carry any weight in the assessment of this appeal. At the local-level there is no planning policy or guidance concerning the application of VBC.
37. Thirdly, whilst there is an undisputed need for affordable housing, it has been demonstrated that VBC is unlikely to have any significant impact on the delivery of affordable housing in the Small Villages and Hamlets. Although 'every little helps', interrogation of windfall housing data shows that over the last 5 years VBC would have only reduced the number of affordable homes in South Lakeland by roughly 29. The Council also remain on track to meet their corporate target of 1,000 new homes for rent before 2025. As such, allowing the appeal without a contribution of £340,852 would not seriously undermine the delivery of affordable housing in the area.
38. Fourthly, one of the primary reasons for not applying VBC is that the scheme would be viable even with a financial contribution towards affordable housing. This is justified by the extant planning permission which includes a commitment to provide £200,000 towards affordable housing. Nevertheless, the requirement that a proposal must be unviable before VBC applies, or that VBC is needed to facilitate the delivery of sites is not found within either the WMS or the PPG. This point was accepted by the Council at the Inquiry. Thus, based on the evidence before me, the fact that the proposal would be viable even with a financial contribution towards affordable housing, does not justify withholding the application of VBC.

¹² R(West Berkshire District Council and Reading Borough Council) v. Secretary of State for Communities and Local Government [2016] EWCA Civ 441

39. Finally, the appeal site contains a number of non-designated heritage assets which have a functional, physical and historic relationship with the Grade II listed Casterton Old Hall to the south. Although some very minor harm to their significance would occur, the proposal would bring about their sensitive reuse. In the case of Bronte House improvements to the appearance of the building would also be demonstrable, and the scheme would remove unsympathetic additions such as uPVC windows and downpipes. The public benefits of bringing the buildings back into use therefore weigh heavily in its favour, as does the provision of new housing as part of a sensitive conversion project within a Small Village. In the absence of any other harm the proposal resonates with the principles of sustainable development when considered against the Framework taken as a whole.
40. When taking all these factors into account, I consider that in this particular case the other material considerations are of such significance that they warrant a decision not in accordance with Core Strategy Policies 6.3 and CS5. Application of the VBC would enable a small-medium sized developer to bring forward the sensitive reuse of non-designated heritage assets within a rural area consistent with national planning policy. Based on the evidence provided these factors justify granting planning permission, and the proposal would make adequate provision for affordable housing.

Overall Conclusion and Conditions

41. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.
42. Aside from the standard time limit condition it is necessary to list the approved plans, as this provides clarity. As discussed at the Inquiry, referring to other supporting documents alongside the plans is ambiguous and unnecessary given the requirements of other conditions.
43. In the interests of highway and pedestrian safety a traffic management plan and PROW management plan are required. Because both relate to the management of construction, service and delivery traffic it is fundamental to secure their approval before work starts on site.
44. In the interests of the character and appearance of the site and immediate surrounding area it is also necessary to require the approval of details relating to existing and proposed landscaping, including measures for tree protection. As above, because this relates to the construction phase of development and the protection of existing trees, hedgerows and other plants, the relevant details should be approved prior to the commencement of development.
45. In order to prevent any harm to protected species it is necessary to require development to be carried out in accordance with the mitigation measures specified in the appellants' ecological survey. This includes precautionary measures such as observing demolition and stopping work in the event that contractors come across bat roosts. However, I have re-worded the suggested condition by referring to the full title of the report and removing reference to the 'received' date, which is unclear.
46. The character and appearance of the site and immediate surrounding area also necessitate specifying window reveal distances, the approval of window and door designs, their surrounds and finish. Likewise, where parts of buildings are

due to be demolished and/or rebuilt it is necessary to specify that the same materials and mortar mix should be used. Conditions are also required to ensure that roofing and building materials match the existing buildings, that rainwater goods should be black, that 'conservation style' rooflights are incorporated and that details of any balconies and decking are approved prior to their installation.

47. For the same reasons it is necessary to require the approval of surfacing materials, boundary treatments, lighting and bin storage. However, to secure their implementation, and as discussed at the Inquiry, I have reworded the suggested conditions by stipulating that such details are implemented in accordance with a timetable approved by the local planning authority.
48. Due to the design, character and appearance of the buildings on the appeal site and their relationship with the Grade II listed Casterton Old Hall it is necessary to remove certain permitted development rights. As agreed between the parties the suggested condition therefore removes the ability for potential future occupiers to carry out development in Classes A, B, C, D, E, F, G and H of Part 1, Classes A, B and C of the Town and Country Planning (General Permitted Development) (England) Order 2015.
49. Finally, the Council's suggested condition 22 requires a sample panel of mortar to be approved, and stipulates that it should contain lime. However, at the Inquiry the Council accepted that the appeal buildings are constructed with a predominantly concrete mortar mix. In addition, conditions 10 and 15 already require any extensions or rebuilding to including pointing which matches the existing buildings. As a result, the suggested condition is unnecessary.

Matthew Birkinshaw

INSPECTOR

Conditions Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan (dwg no. K819-P-19), Existing Site Plan (dwg no. K819-P-15), Existing Site Plan (dwg no. K819-P-16), Existing Plans and Elevations - Garner (dwg no. K819-P-01), Existing Plans and Elevations - Crookenden (dwg no. K819-P-03), Existing Plans - Bronte House (dwg no. K819-P-05), Existing Elevations - Bronte House (dwg no. K819-P-06), Existing Plans and Elevations - Bronte Cottages (dwg no. K819-P-09), Existing Plans and Elevations - Bronte Cottages (dwg no. K819-P-11), Existing Plans and Elevations - Bronte Annex (dwg no. K819-P-13) and

Proposed Site Plan (dwg no. K819-P-18 rev. B), Proposed Plans and Elevations - Garner (dwg no. K819-P-02 Rev. A), Proposed Plans and Elevations - Crookenden (dwg no. K819-P-04 rev. A), Proposed Plans - Bronte House (dwg no. K819-P-07), Proposed Elevations - Bronte House (dwg no. K819-P-08 Rev. A), Proposed Plans and Elevations - Bronte Cottages (dwg no. K819-P-10 rev. A), Proposed Plans and Elevations - Bronte Cottages (dwg no. K819-P-12), Proposed Plans and Elevations - Bronte Annex (dwg no. K819-P-14 rev. A).
- 3) No development shall take place until a scheme providing for the management of construction, service and delivery traffic ("the Traffic Management Plan") has submitted to and approved in writing by the local planning authority. The Traffic Management Plan shall include details of the following:
 - i) Hours of access and operation;
 - ii) Access routes to and from the site;
 - iii) Parking for HGVs and other vehicles;
 - iv) Position of materials storage area;
 - v) Methods of minimising dirt and debris outside the site as a result of demolition and construction works/access; and
 - vi) Position of any temporary buildings/structures.

The approved Traffic Management Plan shall be adhered to throughout the construction/conversion works.
- 4) No development shall take place until a scheme providing for the management of public rights of way ("the PROW management plan") has submitted to and approved in writing by the local planning authority. The PROW management plan shall include measures to ensure that safe access along the public footpath through the site will be maintained during the construction/conversion works for members of the public. The approved PROW management plan shall be adhered to for the duration of the construction/conversion works.

- 5) No development shall take place until a scheme of landscaping ("the Landscaping Scheme") has been submitted to and approved in writing by the local planning authority. The Landscaping Scheme shall be implemented in full thereafter and shall include details of the following:
 - i) all existing trees, hedgerows and other plants, walls, fences and other features which it is proposed to retain on the site the subject of this permission and on adjoining land in the same ownership, supported by a tree care plan ("the tree care plan") to demonstrate how the trees will be protected during and after the construction works;
 - ii) the area(s) whether within or adjoining the site to which this permission relates in which new plantings of trees and/or shrubs will take place, the species of plant(s) to be used, their size, their number, their spacing and the means to be used to maintain, support and protect them; and
 - iii) other landscape treatments to be carried out or features to be created, for example, remodelling of existing landforms, surface treatments (i.e. paving), means of enclosure.
- 6) The approved Landscaping Scheme shall be completed in accordance with the following:
 - i) All hard and soft landscaping shall be completed in accordance with the approved scheme, within the first planting season following the completion of the development hereby approved, prior to first occupation, or in accordance with a programme agreed with the local planning authority;
 - ii) All trees shrubs and hedge plants supplied shall comply with the standards of British Standard 3936 - Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance shall be carried out in accordance with the requirements of British Standard 4428 (1989) Code of Practice for General Landscape Operations;
 - iii) All new tree plantings shall be positioned in accordance with the requirements of Table 2 of British Standard 5837 A Guide for Trees in Relation to Construction; and
 - iv) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or seriously diseased within 5 years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of like size and species to those originally required to be planted.
- 7) Except where they have been identified for felling on the Landscaping Scheme approved by the local planning authority, all the trees on site, or on land immediately adjoining it, shall be protected for the duration of works in accordance with the approved tree care plan or otherwise in the following ways:
 - i) no demolition, site clearance or building operations shall commence until Chestnut paling fencing (or other type of fencing approved by the local planning authority) of a height not less than 1.3 metres has been erected around each tree or group of trees, on or overhanging the site, at a radius from the trunk of 5 metres or around the

- crownsread, whichever is the greater. Such fencing shall be maintained until development is complete;
- ii) no trenches, including any trench for services or drains shall encroach within the crown-spread of any trees which are on or overhang the site;
 - iii) any excavations necessary within the crown spread of any trees which are on or overhanging the site shall be restricted to foundation trenches. Such excavations shall be carried out by hand; and
 - iv) the burning of materials, including any obtained by site clearance or demolition, shall not take place within 6 metres of the furthest extent of a canopy of any tree or group of trees on or overhanging the site. No tree felling, lopping or removal of branches from trees to be retained shall be carried out without the approval in writing of the local planning authority. No topsoil or other spoil from excavations shall be disposed on site if such soil shall lie within the crown spread of trees which are on or overhang the site.
- 8) The works hereby permitted shall be carried out in accordance with the mitigation methods and recommendations within section 9 of the 'Bat, Barn Owl & Nesting Bird Survey at Lower School, Casterton' (Envirotech) including the timing and extent of any works to the site and buildings.
- 9) No conversion of any building hereby approved shall commence until the following details, or a sample where appropriate, have been submitted to and approved in writing by the local planning authority:
- i) the design of all new window frames and external doors, and showing the window frames and external doors to be made from timber;
 - ii) the reveals/recess of all windows and external doors to be a minimum of 100mm from the external face of the wall in which they are set;
 - iii) a sample of the new window and external door surrounds to include a sample of the heads, sills, and jambs; and
 - iv) the colour of the paint finish of all window frames and external doors.
- Development shall be carried out in accordance with the approved details.
- 10) No part of the buildings shall be demolished and/or rebuilt, except as shown on the approved plans. Those areas identified for rebuilding, including making good the reveals and internal walls around new openings shall be built up reusing the existing stone and shall be laid and pointed to match in type, style, colour and mortar mix, the external walls of the existing building. Any additional materials required shall be reclaimed natural stone of the same kind, dimensions and colour as those on the existing buildings at the date of this notice.
- 11) The existing natural roofing slates of the existing buildings shall be retained as the exterior roof covering of the buildings. Any additional slates required shall be natural slate of a similar kind, dimensions and colour as those on the existing buildings at the date of this notice. The natural slate roof shall be retained as such thereafter.

- 12) New rainwater goods including fixings shall be coloured black and fixed directly to the masonry of the building using rise and fall brackets, unless there is a pre-existing soffit, and shall remain as such thereafter.
- 13) All new rooflights in the approved development shall be of 'conservation style', fitted flush with the adjoining roof surface and shall not project above the plane of the roof. The rooflights shall be retained as such thereafter.
- 14) No installation of any balcony or deck shall take place until details of their design, materials and finish have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 15) The external walls of the extensions hereby approved, shall be built up in local natural stone laid and pointed to match in type, style and colour the external walls of the adjoining existing building.
- 16) The materials to be used as the exterior roof covering of the extensions hereby permitted shall be of the same kind, dimensions and colour as those existing on the adjoining building at the date of this notice.
- 17) No development shall take place until a scheme providing for surfacing and resurfacing of any area, including the access and any road margins, parking areas, paths and patios has been submitted to and approved in writing by the local planning authority ("the Surfacing Scheme"). The Surfacing Scheme shall be implemented in full thereafter in accordance with a timetable approved in writing by the local planning authority.
- 18) No development shall take place until a scheme providing for walling, gates, fencing or other boundary treatments, including their respective positions, design, size, material, type and finish ("the Boundary Treatment Scheme") has been submitted to and approved in writing by the Local Planning Authority. The Boundary Treatment Scheme shall be implemented in full thereafter in accordance with a timetable approved in writing by the local planning authority.
- 19) No external lighting (including street lighting) shall be erected until a scheme providing for design, luminosity, position and number ("the External Lighting Scheme") has been submitted to and approved in writing by the local planning authority. The external lighting scheme shall be implemented in full thereafter in accordance with a timetable approved in writing by the local planning authority.
- 20) No conversion of any building hereby approved shall take place until a scheme providing for the position, design, materials, external appearance, availability and dimensions of proposed bin storage areas ("the Bin Storage Scheme") has been submitted to and approved in writing by the local planning authority. The Bin Storage Scheme shall be implemented in full thereafter in accordance with a timetable approved in writing by the local planning authority.

- 21) Notwithstanding the provisions of Classes A, B, C, D, E, F, G & H of Part 1, Classes A, B and C of Part 2, and Classes A, B, C, D, E, F and G of Part 14 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking, re-enacting or modifying that Order, no development of the description in these classes shall be carried out on the site except in accordance with planning permission granted by the local planning authority.

END.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Jonathan Powell

He called

Simon Anthony Fawcett
(BLE Hons, Msc Environmental
Planning)

Planning Officer, South Lakeland District Council

FOR THE APPELLANT:

Mr David Hardy

He called

Alexander John Dawson
(BSc(Hons) FRICS DipBldgCons
RICS)

Director, Eight Property Limited

Andrew Willison-Holt
(BSc(Hons) Dip.TP MRTPI)

Director, Holt Planning Consultancy Ltd

INQUIRY DOCUMENTS

- ID1 Email from Simon Fawcett to David Hardy, dated 22 May 2017
- ID2 Opening submissions on behalf of the Appellant
- ID3 Email from David Hardy to Simon Fawcett, dated 24 April 2017
- ID4 Notification of Inquiry
- ID5 LSH Rebuttal to Appellant's viability assumptions document 19 May 2017
- ID6 Pages 41 and 42 from the South Lakeland District 2014 SHMA Update
- ID7 Email from Richard Graham to Andrew Willison-Holt, dated 5 July 2016
- ID8 Closing Submissions on behalf of South Lakeland District Council
- ID9 Closing Submissions on behalf of the Appellant

CORE DOCUMENTS

- CD1 Extracts from the South Lakeland LDF Core Strategy
- CD2 Saved Policies of the South Lakeland District Council Local Plan
- CD3 Extracts from the Draft Local Plan Development Management Policies
- CD4 Extracts from the South Lakeland Local Plan Allocations DPD
- CD5 Extracts from the South Lakeland District 2014 Strategic Housing Market Assessment Update
- CD6 South Lakeland Local Plan Housing Land Position Report, March 2016
- CD7 South Lakeland District Council Cabinet Meeting, National Planning Update, 24 August 2016
- CD8 South Lakeland District Council Plan 2014-2019
- CD9 National Planning Policy Framework
- CD10 Pre-application letters from South Lakeland District Council, dated 16 January 2014 and 12 October 2015
- CD11 Email from Andrew Willison-Holt to Mark Loughran, dated 12 May 2016

- CD12 Planning Committee Report, Minutes and Appendices, and Delegated Report
- CD13 Representations and update from the appellant and Council
- CD14 Delegated Decision and Decision Notice
- CD15 Delegated Authority from Yorkshire Dales National Park, Planning Permission S/05/2 and Unilateral Undertaking
- CD16 Statement of Case for the Appellant
- CD17 Rule 6 Statement on behalf of the Local Planning Authority
- CD18 Proof of Evidence of Simon Anthony Fawcett
- CD19 Proof of Evidence of Andrew Willison-Holt
- CD20 Proof of Evidence of Alexander John Dawson
- CD21 Rebuttal Proof of Evidence of Andrew Willison-Holt
- CD22 Letter from Ashley K Gray to Andrea Kitzberger-Smith, dated March 2017
- CD23 Appeal Decisions APP/N1920/W/16/3162337, APP/D0840/W/16/3142537 and APP/T0355/W/15/3139531
- CD24 Statement of Common Ground
- CD25 Information relating to Cedar House School and Martindale's Yard