



Appeal Decision

Site visit made on 5 February 2025

by **J D Clark BA (Hons) DpTRP MCD DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 April 2025

Appeal Ref: APP/A2335/W/24/3353408

Land east of Arkholme Methodist Church, Kirkby Lonsdale Road , Arkholme LA6 1BA

- 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 Oakmere Homes (Northwest) Ltd against the decision of Lancaster City Council.
 - The application Ref is 22/01463/OUT.
 - The development proposed is erection of up to 23 no dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of up to 23 no dwellings at land east of Arkholme Methodist Church, Arkholme LA6 1BA in accordance with the terms of the application, Ref 22/01463/OUT, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Oakmere Homes (Northwest) Ltd against Lancashire City Council. That application is subject to a separate decision.

Preliminary Matters

3. The application is for outline approval with access applied for. Matters relating to appearance, landscaping, layout and scale are reserved for later determination.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. In the interest of natural justice and to ensure neither of the main parties were prejudiced by this matter, I consulted both parties on the changes to the Framework and have received comments which I have taken into account in my determination of the appeal. Any reference to the Framework in this decision is to the most recent version and its new paragraph numbers
5. Since the planning application was refused and this appeal lodged the Council has updated the Lancaster Strategic Flood Risk Assessment (SFRA) as part of its ongoing Local Plan Review. The update was published on 13th January 2025. The updated SFRA information now indicates that there is no flood risk within the development site. The Council confirm that, in accordance with the Planning Practice Guidance, there is therefore no requirement for a sequential test. The Council therefore no longer wish to defend the reason for refusal. However, as this matter has been raised by third parties I will address this in my main issue below.
6. An executed Section 106 agreement has been submitted with regard to public open space, affordable housing and Biodiversity Net Gain.

Main Issue

7. The main issue is the effect of the proposal on flooding on the appeal site and in the surrounding area.

Reasons

8. The Council's single reason for refusal was based on information at the time which indicated that the site access was within an area at high risk of groundwater flooding with further areas of medium groundwater flooding within the site. In order to avoid development away from areas at highest risk of flooding, Policy SP8 of the Local Plan (Part One)¹ and Policy DM33 of the Local Plan (Part Two)² seek to address issues of flooding and climate change and indicate that development should not be permitted where there are reasonably available sites appropriate for the proposed development in areas at a lower risk of flooding. Accordingly, the Council required a sequential test in order to demonstrate that the development could not take place elsewhere in the district that would be at a lower risk of flooding. This is consistent with the Framework.
9. As stated above, the Council's revised information indicates that the site is not within an area at risk from flooding and therefore a sequential test is not necessary. There is therefore no substantive reason why permission cannot be granted. The Council has not raised any other matters which would justify a refusal.
10. Notwithstanding this, local residents have expressed concern about flooding and stated that flooding occurs regularly after heavy or prolonged rain. The difference in land levels exacerbates this with evidence submitted showing incidences of flooding in the area. However, given that there is no technical justification for withholding permission on the grounds of flooding, I am satisfied that provided that a suitable drainage system is incorporated into the development then flooding from groundwater from the site would not occur. This can be secured by a suitably worded condition.
11. Therefore, the proposed dwellings would not conflict with Local Plan Policies S8 or DM33 or with the Framework (Section 14).

Other Matters

12. The appeal site is adjacent to the Arkholme Conservation Area and given its proximity and the potential effect on its setting, I have had regard to the statutory duties under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. However, given that this is an outline application with matters relating to appearance, layout, scale and landscaping reserved, any impact on the Conservation Area can only be fully addressed when these details are known and therefore will fall to be assessed in the subsequent reserved matters application(s).

¹ A Local Plan for Lancaster District 2011-2031 Part One: Strategic Policies and Land Allocations DPD, Adopted Version July 2020.

² A Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD, Adopted Version July 2020.

13. Extant planning permissions exists for 16 dwellings (outline and reserved matters)³ and this proposal would add an additional 7. Given that the principle of dwellings on the site has been established and the Council cannot demonstrate a five year supply of housing land, as required by the Framework, there is a presumption in allowing the increased number of houses on this site. However, although the proposal indicates up to 23 dwellings, the eventual layout and appearance of the development will be subject to reserved matters approval(s).
14. Concern is expressed that the plans are misleading in particular due to omissions on the location plan. This does not show The Sheiling which comprises of a residential development to the north of the site and adjoining part of the appeal site's boundary. However, it is clear from the submitted documents that the presence of these houses were taken into account by the Council. In any event, as the layout and scale of the proposed dwellings is a reserved matter, the lack of this information does not affect the principle of the development as applied for here. The relationship of the proposed dwellings to its surroundings, including those dwellings in The Shielling would need to be fully taken into account when designing and assessing the details required to be submitted through a reserved matters application(s).
15. Access is applied for at this stage which is similar to that approved through the previous applications, referred to above. Subject to conditions, there is no justifiable reason why this access is not acceptable. There are no technical reasons to justify any harm due to an increase in the number of dwellings at this site.
16. The Council acknowledge that Arkholme is not a sustainable settlement in relation to the provision of services and only has a two-hour bus service to larger settlements. However, given that 16 dwellings have already been approved, the larger number here would contribute to the Council's shortfall in housing supply and through the Section 106 agreement achieve benefits in relation to affordable housing, open space and Biodiversity Net Gain.
17. Lancashire County Highways have requested a financial contribution of £6605.00 towards highway developments in Lancaster and Morecambe. Taking into account the Community Infrastructure Levy (CIL) tests under Regulation 122 of being reasonable, necessary and proportionate for the development, a request for this contribution would not meet the necessary tests. Likewise, although concerns have been raised about the capacity of the local primary school, Lancashire County Education state, that based on pupil projections, there is a surplus of local primary and secondary education places. Any contribution would not therefore meet the CIL tests.
18. The NHS has requested contributions but evidence justifying the need and the costs of proposed works to the local medical centre has not been submitted. The Council conclude that it is therefore not possible to ensure that this request satisfied the CIL regulations tests. No further evidence has been presented which causes me to come to a different conclusion.
19. The Council state that the site is within a Mineral Safeguarding Area under Lancashire's Waster and Minerals Local Plan. I have limited information about this but I am told that the application site only partially covers the eastern edge of the

³ Planning Application Refs: 15/01204/OUT & 18/00645/REM.

mineral safeguarded area and the Council conclude that this would not restrict extraction from the wider area should it be required. Taking into account the topography of the site, the location and access via rural roads and the proximity to residential properties the Council accepts that the proposal would not harm the limited potential the site would have for mineral extraction. I concur with this view.

20. The Council state that there is a deficiency of amenity green space, young people's provision and quality outdoor sports provision within the Carnforth/Rural area and a lack of parks and gardens. An additional 23 dwellings would place additional pressure on an already deficient provision and therefore on-site provisions and financial contributions to meet open space requirements would be appropriate. This would be secured through the Section 106 agreement with greenspace provided on site and contributions calculated at reserved matters stage.
21. The proposal includes the removal of hedgerow to facilitate the access. The development would also require appropriate landscaping which would form part of a reserved matters application. However, in order to achieve a net gain in biodiversity and long term monitoring and maintenance, this has been included in the submitted Section 106 agreement. I am satisfied that this meets the tests in the Regulations.
22. The Section 106 also includes the provision of affordable housing. The precise size, type and phasing would be agreed at the reserved matters stage. The Framework supports boosting the supply of homes that meets an area's identified housing need, including an appropriate mix of housing for the local community. This should include those who require affordable housing, amongst other things. I am also satisfied therefore that the inclusion of this requirement meets the necessary tests for the Section 106.
23. Various other matters have been raised and would be addressed either at the reserved matters stage and/or by suitably worded conditions and therefore do not require me to expand further.
24. In balancing the matters raised, the proposal for an additional 7 dwelling above those already approved under the extant permissions offers additional social and economic benefits at a time when there is a lack of housing land supply in the Borough, the Council has provision for just 2.1 years which is a considerable shortfall to the 5 years required. This benefit includes the provision of affordable homes for which there is a particular demand. Furthermore, the proposal would have less than substantial harm on the heritage asset given that this is an outline application and matters relating to achieving a sympathetic design and layout would be addressed at reserved matters stage.
25. At the time of the Council making its decision, the benefits outlined above were not outweighed by the risk of flooding and the lack of a sequential test to justify the development. This matter, outlined in my main issue was the sole reason for refusal. As this no longer applies, the other matters raised do not justify preventing this development and no conflict with the development plan or the Framework would occur.

Conditions

26. As this is an outline application, the standard time limit for the submission of reserved matters and the commencement of development is necessary (1). A condition relating to the approved plans is necessary for the avoidance of doubt and in the interests of proper planning (2).
27. A condition requiring full details of the access is suggested in the interests of highway safety. Some details have been submitted with this proposal and are included as a matter hereby approved. However, although full specifications would be subject to a Section 278 agreement with the Highway Authority, it is necessary that full details form part of this approval and a condition is necessary to ensure this (3). Likewise, it is also necessary that the visibility splays shown on the same plan are implemented and I have imposed a condition accordingly (17).
28. Furthermore, the internal access roads will need to be approved at a later date as part of the reserved matters in relation to layout. It is reasonable that these details include full engineering and construction details, including drainage as suggested by the Council. I therefore find that a condition in this regard is reasonable and necessary (14). Also, it is reasonable that there is a link to the Public Footpath that runs along the southern boundary of the site in order to provide a pedestrian link to the village (18). Likewise, in order to encourage sustainable transport modes, it is reasonable to ensure that secure cycle storage is available to the occupiers of the proposed dwellings. The suggested condition links this with bin storage which is reasonable for conciseness and in the interests of the amenity of the area (19).
29. A condition relating to off-site highway works is suggested and although these works will require a S278 agreement with the Highway Authority, it is necessary that these works are linked to this application. The appellant has not contested the list of works suggested in the condition and so for the avoidance of doubt and to ensure these works are carried out, the condition as suggested is reasonable and necessary (15).
30. The suggested condition with regard to surface water drainage of the site is very detailed but it is necessary that the development can be adequately drained (4). A condition requiring details of foul drainage is also required (5) both of these are reasonable and necessary. A condition is suggested requiring a verification report to demonstrate that surface water drainage has been constructed in accordance with the approved drawings. This is necessary to ensure that the surface water drainage system has been carried out in accordance with the approved details. (20). However, the requirement for a site specific Operation and Maintenance Manual for the lifetime of the development relating to the surface water drainage system would be unnecessarily onerous and I do not consider that a condition for this, as suggested, would be reasonable or necessary.
31. A condition requiring an assessment of any site contamination and necessary remediation is suggested. This is consistent with the findings in the submitted Phase 1 assessment and therefore a condition is necessary in order to ensure that risks of contamination are minimised (7).
32. A Construction Management Plan is suggested which is reasonable and necessary to ensure that the development is carried out in the interests of safety in relation to the highway and access into and out of the site (8). A condition is also suggested with regard to a Construction Surface Water Management Plan

detailing how surface water and stormwater will be managed on site during site clearance and construction. This is reasonable as part of the construction management of the site and necessary given the topography of the site and the potential impacts of surface water (9).

33. A condition requiring the finished floor levels of the dwelling is necessary given the topography of the site and the relationship between the proposed dwellings and its surroundings including nearby dwellings at The Shielings and the character, appearance and significance of the Conservation Area (6).
34. A condition requiring a schedule of tree works, tree protection and an arboricultural method statement is reasonable and necessary in order to prevent damage to trees/hedges during the site works (10).
35. A condition is suggested requiring the implementation of the ecological mitigation measures set out in the submitted Preliminary Ecological Appraisal (16). This is necessary to adequately protect the biodiversity value of the site. However, a condition is also suggested requiring a Landscape Ecological Management Plan (LEMP) detailing management of habitats to be retained and created within the site and its maintenance and monitoring regime for at least 30 years. The appellant points out that the application was submitted prior to the legal requirements under Biodiversity Net Gain (BNG) coming into force. However, the executed Section 106 agreement makes provision for BNG and therefore I do not consider that the suggested condition is necessary.
36. A condition relating to energy efficiency measures is suggested in order to address the impacts of climate change and ensure that the development keeps its environmental impacts to an absolute minimum. An Energy Statement has been submitted with the appeal documents which sets out the appellant's intention to incorporate energy efficiency measures. However, it is dated November 2022 and may now be out of date. The suggested condition requires details to be submitted in accordance with specific policies of the Development Management DPD (CERLP adopted 22 January 2025) but a copy of this has not been submitted. I have therefore reworded the condition to delete this reference (13).
37. A condition is suggested requiring an Employment and Skills Plan (ESP) which would accord with the requirements of Development Plan Policy DM28 which aims to set out opportunities for, and enable access to, employment and up-skilling of local people through the construction phase of the development proposal. In order to contribute to sustainable economic development the suggested condition is reasonable (11).
38. A condition is suggested requiring the development is carried out in accordance with the submitted programme of archaeological works. This was submitted in order to discharge a condition on the previous approval referred to. The condition is reasonable and necessary in order to inspect and record matters of archaeological/historical importance on the site (21).
39. A condition requiring the first reserved matters application to detail a mix of housing is reasonable in order to achieve an appropriate mix of housing in accordance with local need and taking into account future adaptability in achieving a sustainable development (12).

40. A condition requiring all dwellings to conform to the requirements of Housing Standards is reasonable and necessary to ensure a good standard of sustainable development and in accordance with Local Plan (Part Two) Policy DM2 (22).
41. A condition stating that the dwellings hereby permitted shall not exceed two storeys in height is reasonable given the topography of the site and its elevated position. Also, given the location of the site in relation to the Conservation Area and the relationship between the open countryside and this rural village a condition is necessary to ensure that the density of development hereby approved is not achieved at the expense of causing harm to the heritage asset and the character and appearance of its surroundings (23).
42. A condition is suggested which requires details of all boundary treatments and enclosures and all surface treatments. However, this could be submitted as part of the reserved matters and a separate condition is not necessary. The same condition also suggests removing permitted development rights for the provision or replacement of hardsurfaces within the curtilages of the dwellings (Schedule 2, Part 1 Class F of the GDPO) and the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure (Schedule 2, Part 2, Class A of the GDPO). Given that this is an outline application and the details of the layout or design of the eventual development is not known at this stage, notwithstanding the appeal's site's relationship to the heritage significance of the Conservation Area, this restriction has little basis. This restrictive condition is not therefore reasonable or necessary.

Conclusion

43. For the reasons given above the appeal should be allowed.

J D Clark

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, "the reserved matters", shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) The development hereby permitted shall be carried out in accordance with Drawing Nos:-
 - 075/LOC/01 Rev E & J1256 access fig 1, dated 14/9/2022.
- 3) No development shall commence until full detailed plans of the approved access plan, referenced J1256 access fig 1, dated 14/9/2022, including constructional details of the site access and connection to the existing highway, have been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented and completed in full in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner.
- 4) No development shall commence until details of the design, based on sustainable drainage principles, and implementation of an appropriate surface water sustainable drainage scheme have been submitted to, and approved in writing, by the local planning authority prior to or as part of the first reserved matters application. The detailed surface water sustainable drainage strategy shall be based upon sustainable drainage principles and requirements set out in the National Planning Policy Framework, Planning Practice Guidance, Defra Technical Standards for Sustainable Drainage Systems, shall include multi-level source control within SuDS and accord with the Sustainable Drainage Hierarchy within Policy DM34 of the Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD, Adopted Version July 2020. The details of the drainage strategy to be submitted for approval shall include, as a minimum:
 - (a) Sustainable drainage calculations for peak flow control and volume control for the:
 - (i) 100% (1 in 1-year) annual exceedance probability event;
 - (ii) 3.3% (1 in 30-year) annual exceedance probability event + 45% climate change allowance, with an allowance for urban creep;
 - (iii) 1% (1 in 100-year) annual exceedance probability event + 50% climate change allowance, with an allowance for urban creep
 - (b) Final sustainable drainage plans appropriately labelled to include, as a minimum:
 - i. Site plan showing all permeable and impermeable areas that contribute to the drainage network either directly or

- indirectly, including surface water flows from outside the curtilage as necessary;
- ii. Sustainable drainage system layout showing all pipe and structure references, dimensions and design levels, to include all existing and proposed surface water drainage systems up to and including the final outfall;
 - iii. Details of all sustainable drainage components, including landscape drawings showing topography and slope gradient as appropriate;
 - iv. Drainage plan showing flood water exceedance routes;
 - v. Finished Floor Levels (FFL) in AOD with adjacent ground levels for all sides of each building and connecting cover levels to confirm minimum 150 mm+ difference for FFL;
 - vi. Details of proposals to collect and mitigate surface water runoff from the development boundary;
 - vii. Measures taken to manage the quality of the surface water runoff to prevent pollution, protect groundwater and surface waters, and delivers suitably clean water to sustainable drainage components;
- (c) An assessment of the existing culverted watercourse to be used, to confirm that this system has sufficient capacity to accept surface water run-off generated from the development.
- (d) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant);
- (e) Evidence that a free-flowing outfall can be achieved. If this is not possible, evidence of a surcharged outfall applied to the sustainable drainage calculations will be required;
- (f) A timetable for implementation, including phasing as applicable.

The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner. The drainage system shall be retained and maintained at all times thereafter.

- 5) No development shall commence until details of the foul drainage system shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall not be occupied or brought into use until the approved details have been fully implemented. The foul drainage system shall be retained and maintained at all times thereafter.
- 6) No development shall commence until details of the finished floor levels to dwellings, and finished levels to private gardens, public open space and access roads have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be constructed in accordance with the approved details and retained as such at all times thereafter.
- 7) No development shall commence until the following details have been submitted to, and approved in writing, by the Local Planning Authority:

The application site has been subject to a Phase 2 contaminated land assessment with a detailed scheme for the intrusive investigation, geotechnical investigation, soils sampling and recording of contamination and remediation objectives have been determined through risk assessment; and Detailed proposals for the removal, containment or otherwise rendering harmless any contamination (the Remediation Method Statement).

If during remediation works any contamination is identified that has not been considered in the Remediation Method Statement, then remediation proposals for this material shall be submitted to, and agreed in writing by the Local Planning Authority. Prior to the development hereby permitted being occupied or brought into use the following details shall be submitted to, and agreed in writing by the Local Planning Authority:

The works specified in the Remediation Method Statement have been completed in accordance with the approved scheme; and

A Validation Report and Certificate, confirming achievement of the Remediation Method Statement's objectives, including confirmation of the agreed remediation of any unforeseen contamination encountered during the works.

- 8) No development shall take place until a Construction Management Plan has been submitted to, and approved in writing, by the Local Planning Authority. The approved plan / statement shall provide:

24 Hour emergency contact number.

Details of the parking of vehicles of site operatives and visitors.

Details of loading and unloading of plant and materials.

Arrangements for turning of vehicles within the site.

Swept path analysis showing access for the largest vehicles regularly accessing the site and measures to ensure adequate space is available and maintained, including any necessary temporary traffic management measures.

Measures to protect vulnerable road users (pedestrians and cyclists).

Location of site compound.

Vehicle routing plan to and from the site, including hours of movement.

Details of any proposed temporary closing of any roads or streets.

Delivery, demolition and construction working hours.

Measures to deal with dirt, debris, mud or loose material deposited on the highway as a result of construction.

Measures to control the emission of dust and dirt during construction.

Details of a scheme for recycling/disposing of waste resulting from demolition and construction works.

Bunding of tanks containing fuel, oil and/or chemicals

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

- 9) No development shall commence until a Construction Surface Water Management Plan, detailing how surface water and stormwater will be managed on the site during construction, including demolition and site clearance operations, has been submitted to and approved in writing by the Local Planning Authority.

The details of the plan to be submitted for approval shall include method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include for each phase, as a minimum:

- a) Measures taken to ensure surface water flows are retained on-site during the construction phase(s), including temporary drainage systems, and, if surface water flows are to be discharged, they are done so at a restricted rate that must not exceed the equivalent greenfield runoff rate from the site.
- b) Measures taken to prevent siltation and pollutants from the site entering any receiving groundwater and/or surface waters, including watercourses, with reference to published guidance

The plan shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction.

- 10) No development shall commence until the following details have been submitted to, and approved in writing by, the Local Planning Authority prior to or as part of the first reserved matters application:

Tree Works Schedule (for works proposed to any on or off site trees and hedges);

Arboriculture Method Statement; and

Tree Protection Scheme.

The development shall then be carried out in accordance with such agreed detail, with the approved protection measures being fully implemented prior to any equipment, machinery or materials being brought onto site, retained in situ for the duration of the works, and only removed once the development is complete and all machinery and works material removed from the site.

- 11) No development shall commence until an Employment and Skills Plan (ESP) has been submitted to, and agreed in writing by, the Local Planning Authority. The ESP shall include:-
- a) Targets in accordance with the benchmarks in the Council's Employment and Skills Plan Supplementary Planning Document for construction career advice events, employment, training and apprenticeships during demolition / site clearance, construction and fit-out phases of development;
 - b) Method statement setting out how and when the above targets will be achieved;
 - c) Details of arrangements for monitoring and evaluating the ESP.

The approved ESP shall be adhered to throughout the construction phase of the development.

Prior to no less than 50% of the approved dwellings being practically complete an Interim Report evidencing compliance with the approved ESP shall be submitted to and agreed in writing by the Local Planning Authority. If the Interim Report does not evidence such compliance, then a scheme of remedial measures to address and mitigate any non-compliance shall be incorporated into the Interim Report. Construction of the remaining parts of the development shall be carried out in accordance with the approved ESP and, where relevant, the approved remedial measures set out in the Interim Report. A final report evidencing compliance with the approved ESP and remedial measures in the Interim Report (where relevant) shall be submitted to, and approved in writing by, the Local Planning Authority prior to final occupation of the development.

- 12) Prior to development above ground, detailed plans showing the proposed housing mix across the site, taking into account the Council's Strategic Housing Market Assessment, and showing no fewer than 20% of the units approved as part of this consent meeting the Building Regulation Requirement M4(2): Category 2 - Accessible and Adaptable Dwellings, shall be submitted to, and approved in writing by, the local planning authority prior to or as part of the first reserved matters application. These details shall include:-
- a) the dwelling sizes across the site, in terms of bedroom numbers and internal floorspace of rooms, taking into account the Council's Strategic Housing Market Assessment and any updated Housing Needs Supplementary Planning Document (SPD), and;
 - b) the number of dwellings, which shall be no fewer than 20% of the total number dwellings proposed across the site, designed to meet Building Regulation Requirement M4(2): Category 2 - Accessible and Adaptable Dwellings, showing how the individual units conform to the requirement, and shall include the dwellinghouse and how access will be gained to the properties.

The development shall be implemented in accordance with the approved details.

- 13) Prior to construction above slab level, a detailed scheme for the sustainable design, energy and water efficiency of each dwelling shall be submitted to, and approved in writing by, the local planning authority. The scheme shall include details of the retention and maintenance of all identified renewable technology and efficiency measures forming part of the approved scheme. The development shall be constructed and operated in accordance with the approved details prior to occupation of each dwelling and shall be retained as such at all times thereafter.
- 14) No development to any internal estate roads shall commence until full detailed plans, including full engineering and constructional details of the internal estate road(s), and their drainage features, have been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented and completed in full in accordance with the approved details prior to first occupation of any of the approved dwellings, or

completion of the development, whichever is the sooner, and retained as such at all times thereafter.

- 15) Prior to the development of off-site highway improvements and prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner, a scheme for the construction of the off-site works of highway improvement shall be submitted to, and approved in writing by, the Local Planning Authority. The submitted scheme shall include, but is not limited to, the following:
- a) Laying of transverse Stop and Give Way thermoplastic lines.
 - b) Laying of a limited length of carriageway centre line markings at the sites point of access with Kirby Lonsdale Road.
 - c) Implementation of Gateway Treatment Measures relevant to influencing vehicular speeds along Kirby Lonsdale Road to be located at change of speed classification from national speed limit to 30mph.
 - d) Hedgerow management to be undertaken at the site's junction with Kirby Lonsdale Road.
 - e) Review of street lighting requirements along Kirby Lonsdale Road and the sites point of access.
 - f) Implementation of improvements to the B6254 (Kirby Lonsdale) public highway northerly footway from an indicative crossing point adjacent to the sites point of access with the same to a defined crossing point in the vicinity of Arkholme Village crossroads.
 - g) Implementation of improvements to the B6254 (Kirby Lonsdale) public highway southerly footway from the sites point of access, tying into an existing footway in the vicinity of Arkholme Methodist Church.
 - h) Creation of defined pedestrian crossing points with all complying with basic safety and sightline requirements.

No part of the development hereby approved shall be occupied until the approved scheme has been fully implemented and completed in accordance with the approved details.

- 16) The development hereby permitted shall be implemented in full accordance with the approved ecological mitigation measures set out in the Preliminary Ecological Appraisal, referenced 7771 Rev 3, dated 2nd December 2022. In particular:

Prior to any development commencing, an updated protected species appraisal and UK Hab assessment shall be submitted to, and approved in writing by, the Local Planning Authority;

Prior to any development commencing, a bird and bat mitigation and enhancement strategy shall be submitted to, and approved in writing by, the Local Planning Authority;

No works to trees, shrubs or hedgerow shall occur between the 1st March and 31st August in any year unless a detailed bird nest survey has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present has been submitted to, and approved in writing by, the Local Planning Authority;

Prior to any earthworks or vegetation clearance, a reasonable avoidance measures method statement for mammals and amphibians shall be submitted to, and approved in writing by, the Local Planning Authority.

- 17) Prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner, visibility splays hereby approved, as detailed on the proposed access plan, referenced J1256 access fig 1, dated 14/9/2022, measuring at least 67m to the northeast and 60 metres to the southwest from a point 2.4m into the site from the public highway measured along the centre line of the application site's proposed point of access, shall be implemented in full on both sides of the approved vehicular access. No walls, fences, trees, hedges, shrubs, ground or other structures within these splays shall exceed 1 metre in height above the centre line of the adjacent carriageway, and shall be retained as such at all times thereafter.
- 18) Prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner, a scheme for the connection to the Public Right of Way (PROW) to the south of the site known as Footpath no.4 shall be submitted to, and approved in writing, by the Local Planning Authority. The scheme shall detail its connection from the site to the PROW, including its width, surfacing materials and any gates or lighting that will be required. The approved scheme shall be implemented in full and available for public use in accordance with the approved scheme and retained thereafter.
- 19) Prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner, details of covered and secured cycle storage, and facilities for recycling/disposing of waste for each residential unit hereby approved, shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to first occupation of each residential dwelling insofar as such provisions relate, and shall be retained as such for these purposes at all times thereafter.
- 20) Prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner, a site-specific verification report, pertaining to the surface water sustainable drainage system, shall be submitted to and approved in writing by the Local Planning Authority.

The verification report must, as a minimum, demonstrate that the surface water sustainable drainage system has been constructed in accordance with the approved drawing(s) (or detail any minor variations) and is fit for purpose. The report shall contain information and evidence, including photographs, of details and locations (including national grid references) of critical drainage infrastructure (including inlets, outlets, and control structures) and full as-built drawings. The scheme shall thereafter be maintained in perpetuity.

- 21) The development shall be carried out in accordance with the programme of archaeological works within the approved written scheme of investigation referenced 1/2018/REM, dated January 2019. The recording and analysis shall be secured in accordance with the implementation of these approved details, with a report of the recording and analysis findings shall be submitted to the Local Planning Authority prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner

- 22) All dwellings (including apartments/flats) hereby approved shall be designed and built in full compliance with the Technical Housing Standards - Nationally Described Space Standards March 2015 (or future successor) to cover both internal floorspace and storage.
- 23) The dwelling houses hereby permitted shall not exceed two storeys in height.

Richborough



Costs Decision

Site visit made on 5 February 2025

by **J D Clark BA (Hons) DpTRP MCD DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 April 2025

Costs application in relation to Appeal Ref: APP/A2335/W/24/3353408

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Oakmere Homes (Northwest) Ltd for a full award of costs against Lancaster City Council.
- The appeal was against the refusal of planning permission for the erection of up to 23 no dwellings.

Land east of Arkholme Methodist Church, Kirkby Lonsdale Road, Arkholme LA6 1BA

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. This proposed development has taken a long time to reach this stage with the planning application being submitted in November 2022. It was approved by Planning Committee in April 2023 subject to a Section 106 agreement. However, the S106 remained unresolved, apparently due to queries and on-going discussions over certain aspects of the S106. In December 2023 the Council notified the applicant that a sequential test would now be required due to medium and high levels of surface and groundwater flooding at the site. The applicant did not consider that this was necessary and the planning application was refused in June 2024.
4. The Council based its refusal on the data within the Strategic Flood Risk Assessment (SFRA). The applicant states other Local Planning Authorities are using the Geosmart Dataset as it is more reliable. The applicant also used this to defend the lack of a requirement for a sequential test. Whilst the parties disagree on the most appropriate database, the reason for refusal clearly sets out the Council's position at that time and its decision was based on appropriate development plan policies.
5. The updated SFRA was published on 13 January 2025, this is over six months after the Council's decision. The appeal form is dated 9 October 2024, and so the revised SFRA was published three months after the appeal was lodged. However, the applicant's view is that the Council were aware of the updated flooding information at the time the appeal was lodged but continued to defend its reason for refusal.

6. Given the timeline between the planning decision and the publication of the updated SFRA information, the appellant would have had to re-submit a planning application to address the changed information or lodge an appeal. Given the timings, the Council were not unreasonable in defending its reason for refusal.
7. Once the revised SFRA was published, the Council informed the Planning Inspectorate of this the next day. Although there was a period of time before the SFRA review was published, the Council were not unreasonable in waiting until the document was published before stating that it no longer wished to defend its reason for refusal.
8. Furthermore, whilst the applicant considers that the Council has not taken into account the fall-back position of the approved 16 dwellings, I am satisfied that this matter was taken into account in the planning balance in determining the planning application. Given the fall-back position, the applicant could have progressed development of the site under the previous planning approval, therefore, development on the site has not been unduly hampered by the appeal process in relation to this proposal.
9. Although the scenario of events in terms of timings of the appeal and the review of the flooding data has prolonged the time in obtaining planning permission, this does not amount to unreasonable behaviour that has lead to unnecessary or wasted expense in the appeal process.
10. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred and an award of costs is not warranted.

J D Clark

INSPECTOR