

<b>Agenda Item</b>	A8
<b>Application Number</b>	22/01463/OUT
<b>Proposal</b>	Outline application for the development of up to 23 residential dwellings and creation of a new access
<b>Application site</b>	Land East Of Arkholme Methodist Church Kirkby Lonsdale Road Arkholme Lancashire
<b>Applicant</b>	Oakmere Homes (Northwest) Ltd
<b>Agent</b>	Mr Daniel Hughes
<b>Case Officer</b>	Mr Andrew Clement
<b>Departure</b>	Yes
<b>Summary of Recommendation</b>	Approval subject to conditions and a Section 106 legal agreement

**(i) Procedural Matters**

The application was presented to the Planning Regulatory Committee in April 2023. However, Lancashire County Council School Planning Team (County Education) no longer consider the education contribution originally sought to be necessary to mitigate the impacts of the development. As such, Officers are re-presenting the scheme to Councillors for consideration without this education contribution previously sought and approved in April.

**1.0 Application Site and Setting**

1.1 The site is located on the southern periphery of the village of Arkholme, located to the east of the B6254 (Kirkby Lonsdale Road) covering an area of 1.05 hectares. The existing use of the site is agricultural land enclosed by hedgerows to the western and northern boundaries (together with the existing Methodist Church Car Park), with open fields to the east and south. The land rises to circa 4 metres above the adjacent Kirkby Lonsdale Road to relatively level central section, and then falls away circa 7 metres in level difference towards the Public Right of Way to the east, and down to Bains Beck beyond the south of the site.

1.2 The application site is bound by Kirkby Lonsdale Road to the west, with Arkholme Methodist Church and a row of terraced cottages to the northwest, considered to be non-designated heritage assets along with Bainsbeck House on the opposite side of the Kirkby Lonsdale Road. The church carpark and churchyard land to the rear of the terraced cottages forms a designated open space area. To the north is 'The Sheiling' development (planning reference 14/00895/FUL), a recently constructed residential development of 14 dwellings, with open fields to the east and south. A Public Right of Way (footpath no.4) immediately abuts the southern periphery of the site and runs from a west to east orientation, beyond which are further fields and Bains Beck. The eastern end of the proposed development area is susceptible to surface water flooding in 1in30 year events, in line with an existing culvert, that the application proposes to reroute and drain into, discharging into Bains Beck to the south.

1.3 The site falls within the designated Open Countryside, and the western aspect of the site falls within a mineral safeguarding zone. The access and visibility splays are within the Arkholme Conservation Area, and a protect tree is situated to the land to the south of the proposed development. Arkholme Conservation Area is characterised by its linear plan form, which developed around the motte to the northeast of the village in the early medieval era. The village expanded in the C17 and many of the extant buildings date to this era and later, with most buildings fronting directly onto the pavement. The historic road layout is extremely well-preserved and legible. There is great variation in plot sizes, but they are generally generous with large gardens to the side or rear (or both). Some are set back in large verdant grounds bounded by mature hedges, but despite variation in plot position, the historic buildings address the road. There is a strong historical and visual link to the surrounding countryside, which means the surrounding rural landscape contributes strongly to the conservation area's significance, and this setting has significantly retained the rural character of the village. The Conservation Area appraisal identifies the Wesleyan Methodist Chapel, Bainsbeck House and Chapel Cottages as positive buildings.

## 2.0 Proposal

2.1 The scheme proposes the erection of up to 23 units, a new access off the B6254, together with a new crossing and pavement footway to the northwest of the B6254. The application is in outline form, only seeking permission for the erection of up to 23 units and the new access into the site. Matters associated with layout, scale, appearance and landscaping would be assessed at the reserved matters stage, if outline consent is granted.

2.2 The proposed access into the site consists of a 5.5 metre road, in the same location as the extant permissions at the site. A pavement footway on the northern side of the new access with an uncontrolled pedestrian crossing is proposed to link with proposed pavement footways connecting to existing pavement provision on the B6254, circa 83 metres in length.

## 3.0 Site History

3.1 The proposal was presented to, and resolved to be approved in April 2023 by, the Planning Regulatory Committee (the full report is appended), following a member site visit on 17<sup>th</sup> April 2023. Under the scheme of public participation, it was proposed by Councillor Geoff Knight and seconded by Councillor Dave Brookes:

“That the application be approved subject to the conditions in the Committee Report.”

Upon being put to the vote, 8 Councillors voted in favour of the proposal with none against and 4 abstentions, whereupon the Chair declared the proposal to have been carried.

### **Resolved:**

That the application be approved subject to a Section 106 legal agreement to secure the following:

- 40% provision of affordable housing (percentage, size, type, phasing to be agreed at Reserved Matters stage based on local housing needs and the tenure of affordable homes split into 50/60% affordable/social rent and 50/40% intermediate tenure);
- Detail, contribution and provision for open space (to be calculated at Reserved Matters Stage);
- Biodiversity net gain, including an updated metric at the time of a reserved matters application, that continues to demonstrate 10% net gain and a Landscape and Ecological Creation and Management Plan showing 30 year management;
- Provision for long term drainage, open space and landscaping/BNG, maintenance and management company; and,
- Contribution to Education (to be calculated at Reserved Matters Stage).

and subject to the conditions in the Committee Report:

1. Timescale for commencement (2 years).
2. Development in accordance with approved plans.
3. Arboricultural Impact Assessment details, submission of Arboricultural Method

Statement and Tree Protection Plan.

4. Final surface water sustainable drainage strategy (SuDS).
5. Foul water scheme.
6. Finished site and floor levels (including gardens and open space).
7. Full landscaping and ecological management plan.
8. Ecology mitigation measures, including updated protected species appraisal.
9. Full energy efficiency measures, at least 4% enhancement.
10. Submission of an Employment and Skills Plan.
11. Submission of construction management plan.
12. Submission of construction surface water management plan.
13. Full details of site access/footway/crossing/lighting.
14. Contaminated land - following recommendations of the report.
15. Boundary and surface treatments remove permitted development.
16. Scheme for the full engineering, drainage and construction details of the internal estate roads.
17. Off-site highway works, including pavements.
18. Visibility splays.
19. Sustainable drainage system operation and maintenance manual.
20. Verification report of constructed sustainable drainage system.
21. Scheme of archaeological work.
22. Public right of way (PROW) connection scheme.
23. Cycle and bin storage details.
24. Housing mix address local need/policy.
25. Requirements of M4(2) accessibility and adaptability.
26. Nationally Described Space Standards.
27. Limit up to 2 storey.

3.2 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
22/00637/FUL	Erection of 23 dwellings with associated access, internal access road, installation of a package treatment plant and diversion of a culvert	Refused
21/01164/ELDC	Existing lawful development certificate for the lawful commencement of planning permission 15/01024/OUT and reserved matters consent 18/00645/REM	Granted
20/01160/NMA	Seeking to amend Condition 7, relating to a surface water drainage scheme, attached to planning application 15/01024/OUT. Amend the trigger point at the beginning of the condition and remove the offending tailpiece at the end of the condition	Refused
18/00645/REM	Reserved matters application for the erection of 16 dwellings (C3)	Approved
15/01024/OUT	Outline application for the erection of up to 17 dwellings, associated access, provision of a new church car park and a new footway along the B6254	Approved

#### 4.0 Consultation Responses

4.1 These have been set out in the appended report, with the additional comments from a subsequent response from County Education updated below:

Consultee	Response
County Education	<b>No objection</b> , contribution previously sought no longer required in relation to this application, as the impact of the development can be mitigated by available surplus places, for both primary and secondary education, due to revised pupil projections.

## 5.0 Analysis

5.1 The key technical matters have been addressed within the Committee report of April 2023 (appended). However, given the updated response from County Education the main issue is:

- The change in direction and necessity of education contributions, and Community Infrastructure Levy (CIL) compliance of such contribution.

5.2 **The change in direction and necessity of education contributions, and Community Infrastructure Levy (CIL) compliance of such contribution** Development Management (DM) DPD policies DM57 (Health and Wellbeing), DM58 (Infrastructure Delivery and Funding), and National Planning Policy Framework (NPPF) Section 8 (Promoting healthy and safe communities)

5.2.1 County Education had requested 9 primary school places and 3 secondary school places to mitigate the impact of the proposal in January 2023. This was subsequently reported to planning committee in April 2023, approved subject to such an obligation being controlled through legal agreement. The financial contribution to school places was to be calculated at reserved matters stage, given that the number of dwellinghouses and bedrooms within them will be determined at reserved matters stage (up to a maximum of 23 dwellinghouses, and a planning condition for housing mix to reflect local need/policy). Upon Planning Regulatory Committee approving the application, this progressed to arranging the legal agreement to secure such contributions. During this time, an updated education contribution assessment was carried out by County Education, concluding that this is no education contribution requirement in relation to this application, as the latest assessment identified that the impact of the development can be met by surplus places due to revised pupil projections.

5.2.2 Whilst public consultation responses and the Parish Council have stated that the local primary school is currently at capacity, County Education now conclude that based on pupil projections there is a surplus of local places at both primary and secondary education locally, and this surplus is greater than the number of places likely generated by the proposed development. As such, at the point of agreeing the obligations and legal agreement through this proposal, there is no requirement for this contribution. Whilst demand and supply of school places changes over time, as has occurred in the short period of time between consultation response and arranging the legal agreement, this assessment must be taken at the time of the legal arrangements and issuing of a decision notice at this outline stage, and at this time there is no education requirement in this location.

5.2.3 Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Whilst the assessment undertaken in January met these requirements, a subsequent assessment following the determination by Planning Regulatory Committee, but crucially prior to completing the legal agreement and issuing the decision, has concluded that no mitigation is required in terms of education. Due to revised pupil projects and the surplus school places greater than the demand generated through this proposal, such a contribution is no longer necessary to make the development acceptable, nor would it be fair or reasonable to request this contribution through this application process. Continuing with this contribution as part of the decision would be contrary to guidance regarding planning obligations and the statutory tests of The Community Infrastructure Levy (CIL) Regulations 2010. As such, we're presenting this back to members of the Planning Regulatory Committee to determine the application as before, but with this contribution omitted from the planning obligations progressed as part of the recommendation for approval. No other new issues are highlighted that require additional consideration, as this proposal provided no viability assessment, and seeks to provide policy compliant obligations below.

## 6.0 Planning Obligations

6.1 A Section 106 Legal Agreement is sought to secure the following:

- 40% provision of affordable housing (percentage, size, type, phasing to be agreed at Reserved Matters stage based on local housing needs and the tenure of affordable homes split into 50/60% affordable/social rent and 50/40% intermediate tenure);
- Detail, contribution and provision for open space (to be calculated at Reserved Matters Stage);
- Biodiversity net gain, including an updated metric at the time of a reserved matters application, that continues to demonstrate 10% net gain and a Landscape and Ecological Creation and Management Plan showing 30 year management; and,
- Provision for long term drainage, open space and landscaping/BNG, maintenance and management company.

## **7.0 Conclusion and Planning Balance**

7.1 The scheme was presented to the Planning Regulatory Committee in April 2023. The availability and supply of local primary and secondary school places has altered since this was reported, now finding that there are surplus places based on revised pupil projections, beyond those likely to be generated by this proposal. As such, requesting such a contribution is no longer CIL compliant at the point of completing legal agreement for such obligations and issuing a decision, and therefore this education contribution cannot be included due to conflict with associated guidance and regulations. The requirement for school places has been re-assessed, and the County Education have confirmed that a contribution previously sought is no longer necessary as part of this proposal following revised pupil projections.

7.2 Conditions sought by Councillors previously can be imposed on the consent, and the planning obligations for provision of affordable housing, open space, biodiversity net gain, landscaping, drainage and maintenance of this controlled through legal agreement, with just the omission of education contribution from the previous determination by the Planning Regulatory Committee. With the above in mind, and the fact that education contributions cannot be sought unless they're necessary to make the development acceptable in planning terms, the development as a whole is considered sustainable without this contribution, and the recommendation is to support the scheme subject to conditions and the provision of a legal agreement.

## **Recommendation**

That Outline Planning Permission **BE GRANTED** subject to the following conditions and Planning Obligations (as set out at paragraph 6.1 of this report):

- 40% provision of affordable housing (percentage, size, type, phasing to be agreed at Reserved Matters stage based on local housing needs and the tenure of affordable homes split into 50/60% affordable/social rent and 50/40% intermediate tenure);
- Detail, contribution and provision for open space (to be calculated at Reserved Matters Stage);
- Biodiversity net gain, including an updated metric at the time of a reserved matters application, that continues to demonstrate 10% net gain and a Landscape and Ecological Creation and Management Plan showing 30 year management; and,
- Provision for long term drainage, open space and landscaping/BNG, maintenance and management company.

Condition no.	Description	Type
1	Timescale for commencement (2 years).	Standard
2	Development in accordance with approved plans.	Standard
3	Arboricultural Impact Assessment details, submission of Arboricultural Method Statement and Tree Protection Plan.	Pre-commencement and reserved matters
4	Final surface water sustainable drainage strategy (SuDS).	Pre-commencement and reserved matters
5	Foul water scheme.	Pre-commencement and reserved matters
6	Finished site and floor levels (including gardens and open space).	Pre-commencement and reserved matters

7	Full landscaping and ecological management plan.	Pre-occupation and first planting season
8	Ecology mitigation measures, including updated protected species appraisal.	Pre-commencement and reserved matters
9	Full energy efficiency measures, at least 4% enhancement.	Pre-commencement
10	Submission of an Employment and Skills Plan.	Pre-commencement
11	Submission of construction management plan.	Pre-commencement
12	Submission of construction surface water management plan.	Pre-commencement
13	Full details of site access/footway/crossing/lighting.	Pre-commencement
14	Contaminated land - following recommendations of the report.	Pre-commencement
15	Boundary and surface treatments remove permitted development.	Pre-commencement of boundary/surface treatments
16	Scheme for the full engineering, drainage and construction details of the internal estate roads.	Prior to commencement of estate roads
17	Off-site highway works, including pavements.	Pre-use of access and occupation
18	Visibility splays.	Pre-use of access and occupation
19	Sustainable drainage system operation and maintenance manual.	Pre-occupation
20	Verification report of constructed sustainable drainage system.	Pre-occupation
21	Scheme of archaeological work.	Pre-occupation
22	Public right of way (PROW) connection scheme.	Pre-occupation
23	Cycle and bin storage details.	Pre-occupation
24	Housing mix address local need/policy.	Compliance
25	Requirements of M4(2) accessibility and adaptability.	Compliance
26	Nationally Described Space Standards.	Compliance
27	Limit up to 2 storey.	Compliance

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

In accordance with the above legislation, Lancaster City Council has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been made having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance

**Background Papers**

Previous report to the Planning Regulatory Committee April 2023