



Appeal Decision

Hearing Held on 7 February 2023

Site visit made on 8 February 2023

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2023

Appeal Ref: APP/A2335/W/22/3305545

Land to the rear of Whernside Road, Watery Lane, Lancaster LA1 2TA

- 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 Oakmere Homes against the decision of Lancaster City Council.
- The application Ref 20/01442/FUL, dated 25 November 2021, was refused by notice dated 25 April 2022.
- The development proposed is demolition of an existing dwelling and erection of 78 dwellings (C3) with associated vehicular and pedestrian access, internal roads, footpaths and parking, re-grading of land and retaining structures, drainage infrastructure and the provision of open space and equipped play area.

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 15th February 2023.

Decision

1. The appeal is allowed and planning permission is granted for demolition of an existing dwelling and erection of 78 dwellings (C3) with associated vehicular and pedestrian access, internal roads, footpaths and parking, re-grading of land and retaining structures, drainage infrastructure and the provision of open space and equipped play area at land to the rear of Whernside Road, Watery Lane, Lancaster, LA1 2TA, in accordance with the terms of the application Ref 20/01442/FUL, dated 25 November 2021, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The Council's refusal notice and the appellant's appeal form describe the proposal as '*demolition of an existing dwelling and erection of 78 dwellings (C3) with associated vehicular and pedestrian access, internal roads, footpaths and parking, re-grading of land and retaining structures, drainage infrastructure and the provision of open space and equipped play area*'. The planning application proposal was originally for 80 dwellings, but this was amended prior to its determination. This included a new planning application form dated 25 November 2021. I have determined the appeal on the basis of the above description of development, and not that in the planning application form dated 16 December 2020, as it more accurately reflects the proposal that formed the basis of the plans that were the subject of the Council's refusal notice.

3. On 31 March 2022, the Council submitted the Lancaster District Climate Emergency Review of the Local Plan 2020-2031 (CER LP) to the Secretary of State for independent examination, in line with the Town and Country Planning (Local Planning) (England) Regulations 2012 (2) - Regulation 22. The CER LP has not yet reached adoption stage and hence cannot be afforded full weight in decision making terms. The relevant CER Plan policies in respect of the main issues in this appeal are DM30 a, b and c and DM33 and DM34. I have taken into account the CER LP as a material planning consideration as part of the determination of this planning application. At the hearing, the main parties confirmed that they respectively afforded '*no weight*' to such emerging policies in decision making terms. I do not agree that the policies should have no weight at all, but instead consider that they should not be afforded any material weight in terms of this appeal. This is not, in any event, a determinative issue.
4. In respect of the CER LP, the Council state that '*the changes to the flood risk and drainage policies will not materially alter the appellants drainage proposals, which have been deemed acceptable to the Council in consultation with statutory consultees*'. In respect of policy DM30 a, b and c of the CER LP, the Council has stated that the '*Inspector dealing with the emerging Local Plan has recommended changes, so the weight that can be afforded to this at this stage is not significant*'. I have no reason to disagree with the written views of the Council in respect of these matters. I have afforded greater weight to the adopted development plan for the area, including relevant policies, for the purposes of determining this planning application.

Main Issues

5. The main issues are (i) the effect of the proposal on the landscape character of the area and whether it constitutes good design, (ii) the effect of the loss of undesignated open space in social and environmental terms, and (iii) the effect of the development on biodiversity.

Reasons

Planning policy position

6. The appeal site is unallocated white land and falls within the main urban area of Lancaster. It was previously Green Belt, but this designation was removed as part of the adoption of the most recent development plan for the area. There are no policies in the development plan that would preclude, in land-use principle terms, the erection of dwellings in this area. At the hearing, the Council accepted this position and indicated that their concern related to the provision of housing on the upper slopes/crest of the site and other detailed matters.
7. Policy SP2 (Lancaster District Settlement Hierarchy) of the July 2020 Local Plan for Lancaster District 2011-2031 Part One: Strategic Policies and Land Allocations DPD (SP&LA DPD) seeks to support development in named settlements. In respect of Lancaster, which is an identified regional centre, it states '*this will provide the focus for future growth in the district and will accommodate the majority of new development*'. The appeal site falls within Lancaster.

8. While the proposal is acceptable in land-use principle, this does not obviate the need for the proposed development to also accord with detailed policies and requirements in the development plan. I deal with such matters below as well as the consideration of other material planning considerations.

Landscape character and design

9. In respect of paragraph 174 of the National Planning Policy Framework 2021 (the Framework), the appeal site does not benefit from any local or national landscape designation. Furthermore, as part of the last development plan review process, the site was not deemed worthy of being designated 'Key Urban Landscape' or 'Urban Setting Landscape' status. In respect of the aforementioned designated areas, the reasoned justification to policy ENV5 of the SP&LA DPD states that *'these areas have historically played an important role in defining the character of the district with many of the landscapes providing the setting for significant areas and features. Their continued protection therefore remains important'*. In this regard, it is reasonable to conclude that as part of the development plan review process the site was not identified as being one that scored highly in terms of landscape character or in terms of defining an important character of the district.
10. As part of the appeal, the appellant has submitted a landscape visual impact assessment prepared by Tyler Grange. The site is within the Morecambe Coast and Lune Estuary National Character Area in a Low Coastal Drumlin Landscape Character Type (LCT). The LCT forms a transitional landscape between the coast, the Suburban LCT immediately to the south and the Drumlin Field LCT to the north east. The appeal site falls within a LCT where the land topography is undulating, where some copses appear on the tops or sides of Drumlins and where housing and some industrial development is visible in the landscape. The site also falls within the Carnforth-Galgate-Cockerham Landscape Character Area in the Landscape Strategy for Lancashire which states that buildings on top of drumlin hills are particularly visible, while woodland is limited to small plantations, woods of former estates or fragmented woodland in unusual hilltop and hillside settings.
11. While the drumlin character of the site adds interest to the area in so far that from surrounding localised viewpoints it is possible see open and partly vegetated land on rising land, I was able to observe on my site visit that housing development in the immediate locality was not an uncommon characteristic.
12. The development of houses on the site would inevitably change the otherwise open and green character of this greenfield site. However, change of this nature is often an inevitable consequence of the development of most greenfield sites. Nonetheless, I do note the strength of representation from some members of the public and, like them, find that the development would seek to urbanise a site which, while falling within a defined main urban area, does nonetheless have a semi-rural character to it when appreciated by those in the immediate locality.
13. Owing to the topography of the land, existence of nearby woodland, boundary landscaping and intervening built form, the effects of the proposed development would predominantly be appreciated from localised receptors such

- as surrounding roads (e.g. Torrisholme Road), surrounding residential properties and from the nearby Crematorium/memorial garden, albeit that views from the latter would be filtered through existing and proposed vegetation.
14. In respect of some views, the proposed dwellings would be appreciated in the context of existing dwellings to the east and south, some of which are also noticeable on rising land. In this regard, and despite the concerns raised by the Council and some members of the public, I do not find that houses on the upper slopes of the Drumlin Hill and over its crest would cause material harm to the landscape character of the area.
 15. In respect of policy DM46 of the Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD Adoption Version July 2020 (Development Management DPD) the site is not defined as Key Urban Landscape or Key Urban Setting Landscape. Nonetheless, policy DM46 goes on to state that the district *'has a range of landscapes and townscape which are valued, unique and provide a distinct sense of place, which the Council seeks to protect and enhance'*.
 16. While I acknowledge that some members of the local community do place high value on the site in landscape terms, noting that the site is one of the last meadows in the area and provides impressive views over the district and towards the Lake District and Bowland fells, it is nonetheless not a site that has authorised public access. This is an agreed position between the main parties as outlined in paragraph 1.18 of the signed statement of common ground.
 17. That said, I do acknowledge that the site does provide some open and semi-rural character relief to the edge of existing built form. In this regard, the development of the site would have some adverse effect in terms of eroding the way that the immediate area is currently experienced from localised views. However, I am not persuaded that the site can reasonably be said to be a *'unique'* landscape or that it provides a very distinct sense of place. I do acknowledge that it is valued by members of the public as an open and green environment and that it has been used by walkers, but the weight that I afford to this is diminished owing to lack of authorised public access. Furthermore, I would add that public access to the land would be permitted as part of the proposal, albeit I accept that the environment would change.
 18. Overall, I conclude that once the proposed landscaping has reached maturity the development would result in only limited harm to the landscape character of the area. This appears to be a position shared by the Council who state in the signed statement of common ground that *'it is agreed that the impact on the landscape character type will be negligible'*. Nonetheless, and to this limited extent, the proposal would not accord with the landscape character requirements of policy DM46 of the Development Management DPD and Framework. However, I afford such conflict only limited weight in the planning balance noting that the site does not have a local or national landscape character value designation.

Design

19. The Council raise concern that the proposal would represent a *'backland'* form of development. However, there is no development plan policy that specifically precludes this form of development in the area. The proposal would result in

the loss of a dwelling on Watery Lane to facilitate a new access into the site and it is true that new dwellings would be erected to the rear of existing dwellings.

20. However, backland development is not in itself an uncharacteristic pattern of development in the locality. Indeed, there are access roads and hence openings between dwellings lining Watery Lane, such as at Belmont Close and Malham Close, which are within close proximity to the proposed site access and which have facilitated housing development to the rear of dwellings on Watery Lane. In this context, I do not find that the access would be appreciated as being of unacceptable design or that it would be perceived by passers-by as being inappropriately tight or out of place.
21. The proposed access into the site would be 5.5 metres wide with 1.8 metre wide footpaths and 5 metre radii. There would be a junction platform and there would be a narrowing of Watery Lane to 6.5 metres. This access, coupled with the internal layout with roads reducing down to 4.8 metres in width, has been the subject of a road safety audit without concerns being raised by the local highway authority (LHA).
22. I find that the proposal would not conflict with guidance in Manual for Streets or indeed any local highway guidance in terms of the width of the access/roads (including footpaths) or alterations made to Watery Lane. I am satisfied that 5 metre radii for the access with Watery Lane would be acceptable and would not cause harm to highway safety. The evidence is that larger vehicles (e.g. refuse vehicles) would be able to turn into and out of this junction. The LHA support 5 metre radii and this enables two footpaths to be provided. I have no reason to disagree with the conclusions reached by the LHA in respect of access and layout matters. Road surfacing details could be controlled by condition as a means of alerting drivers to some shared spaces.
23. I appreciate that once into the main part of the appeal site the access would widen slightly, but this in itself does not mean that the proposed access adjacent to No. 39a Watery Lane would be perceived by passers-by as being tight or visually harmful.
24. While some interested parties have raised concern about the proposed layout, and in particular the hierarchy of streets, I am satisfied that there would be sufficient design variety across the site. The proposal would not be too dissimilar to the pattern of development that exists in the surrounding area. At the hearing, the appellant confirmed that from a design point of view the proposal had evolved over time following pre-application discussions with the local planning authority. I am content that the proposal before me would deliver well-designed streets with attractive public spaces with character.
25. In general design terms, the dwellings would be constructed in materials to match those in the immediate area. There would be a variety of house types adding interest to the residential environment. The elevations of the dwellings would be relatively simple in character and form, but they would nonetheless suitably reflect the scale and appearance of house types that exist in the surrounding area albeit with a more modern emphasis. In these respects, I am satisfied that the dwellings would appropriately reflect the context of the locality.

26. In addition, the proposal includes significant tree planting and other vegetation. The main spine road would either include extensive tree planting along its verges and/or trees within the front amenity spaces of dwellings. I am content that in this regard the proposal would accord with paragraph 131 of the Framework from the point of view of the provision of street trees. The evidence is that the dwellings would be energy efficient and that they would permanently remove carbon emissions by about 4.83% and energy demand by approximately 6.40%.
27. Internally the site provides safe and convenient walking routes for pedestrians and the area of open space would benefit from surveillance from surrounding dwellings. There is no dispute between the main parties that the site is in an accessible location within easy reach of sustainable modes of transport thereby enabling future residents to reach amenities, services and facilities without heavy reliance on the private motor vehicle.
28. The site would include access to the nearby woods and hence a pleasant and tranquil walking route would be conveniently available for residents. Furthermore, open space would be provided on site and the dwellings would each be provided with suitably sized and functional gardens.
29. In design terms, and subject to the imposition of conditions, I conclude that overall the proposal would deliver good design. It would accord with the design requirements of policies DM29 and DM46 of the Development Management DPD, the ten design characteristics of the National Design Guide 2021 and Chapter 12 of the Framework.

Loss of undesignated open space

30. Policy DM27 of the Development Management DPD states that the Council will protect amenity spaces, particularly in the main urban settlements of Lancaster, Morecambe, Heysham and Carnforth that are not specifically designated as open space, but *'have an economic, environmental or social value to the community they serve'*. The policy also states that development of such sites will not be encouraged unless appropriate re-provision is provided *'or it is clearly demonstrated to the satisfaction of the Council that the land in question does not provide any economic, environmental or social value'*.
31. There is no objective evidence before me that the site provides an economic value. I recognise that the local community consider that the site has some social value in terms of recreational activity and as a walking area. Indeed, there are many representations from members of the public explaining the value that they place on use of the site in social and well-being terms.
32. As part of my site visit, I was able to see some walkers and it was clear from the desire lines on the land that it was being used by the public for recreational purposes. Nonetheless, it cannot be ignored that the site does not in fact have authorised public access and the landowner could at any time introduce more stringent measures to deny such access. It is in this context that I reach the view that the site has some limited social value. I accept that the site has impressive long reaching views, but these could still be appreciated if the appeal were to be allowed.
33. For the reasons outlined in my consideration of the other main issues above, I do find that the site has some environmental value, but only to the extent of

many other greenfield and undeveloped edge of built settlement sites. In this limited regard, I do find some tension with policy DM27 of the Development Management DPD. I deal with the effect on biodiversity later on in this decision, but it is noteworthy that there is common ground between the main parties that the site has low ecological value and that the proposal would deliver significant biodiversity gain. In this regard, I do not find any harm from an environmental value point of view.

34. Notwithstanding the above, the proposal would fully accord with policy DM27 in so far that it incorporates suitable design measures to ensure that no harm would be caused to the woodland areas to the north, the adjacent rugby club or the nearby crematorium/memorial gardens.
35. A landscape buffer would separate proposed development from Barley Cop Wood and a path and a gate would be provided to and from the site into such an area. Authorised public access onto the site and to and from Barley Cop Wood would be a positive benefit if the appeal were to be allowed. Taking into account the appellant's acoustic and lighting assessments, I am satisfied that residential use of the site would not result in material harm being caused to the use of adjacent playing pitches or vice versa. Sport England concur with this view.
36. While there may be some noise and disturbance caused to users of the adjacent memorial gardens/crematorium at construction stage, this could be minimised to an acceptable level with the provision of temporary acoustic hoardings and controlling construction methods by means of the imposition of planning conditions. Given the separation distance of the proposed development from the crematorium/memorial gardens, I do not find that any material harm would be caused to users of this space in terms of noise, disturbance or light pollution once the development is completed and the dwellings are occupied.
37. As regards open space on site, the proposal includes a local equipped play area in the centre of the site meeting the requirements of appendix D as referenced in policy DM27 of the Development Management DPD. In addition, areas of amenity greenspace would be provided and mainly on the western boundary of the site. While the latter would essentially be greenspace that seeks to break up the effects of built form, it would nonetheless not be used in functional terms due to land topography. Furthermore, the Council's request for a financial contribution towards sports facilities at Ryelands Park would not be provided by the appellant owing to viability issues. However, viability conclusions are not disputed by the Council and there is no reason for me to disagree with such a conclusion.
38. Overall, I am satisfied that adequate provision would be made on site in terms of open space and that justification has been provided in terms of not providing a financial contribution for off-site provision. I do not therefore find material conflict with policy DM27 in this respect.
39. For the reasons outlined above, I conclude that there would be some conflict with policy DM27 of the Development Management DPD in terms of the loss of undesignated open space in social and environmental terms and owing to a lack of a financial contribution towards improving open space provision at Ryelands Park. For the reasons outlined, I do not share the Council's view that such conflict would have '*significant*' harmful impacts. Instead, I find that there

would be limited harmful impacts arising from the conflict with policy DM27 of the development Management DPD.

Biodiversity

40. The proposed site is not designated or protected for its nature conservation. The closest designated sites relate to Lancaster Canal and the River Lune which are Biological Heritage Sites (BHS). There is no evidence that the proposal would cause any harm to BHS.
41. The site lies about 2.3 km northeast of the Lune Estuary Site of Special Scientific Interest and the Morecambe Bay Special Area of Conservation, Morecambe Bay Ramsar, Morecambe Bay and Duddon Estuary Special Protection Area which are European and national designated sites. I deal with the latter later on in the decision.
42. There is no dispute between the main parties that the proposal would not cause harm to protected species or that the grassland habitat is of low ecological value. In ecological terms, and despite there being a pond on the site which the evidence indicates does not support great crested newts, there is nothing that could be said to be particularly 'unique' about the site in ecological terms. The points of dispute relate to the alleged fragmentation of ecological corridors and habitats and whether the proposal would deliver biodiversity net gain.
43. As part of the appeal, the appellant has submitted an ecology rebuttal prepared by Tyler Grange dated 16 August 2022. The evidence is that the pond does not support great crested newts and instead is being used by toads and frogs. Nevertheless, the retention of the pond as an attenuation feature has the potential to continue to be used by toads and frogs. Furthermore, an additional permanent water feature is proposed along the western boundary of the site therefore providing an additional breeding facility for amphibians post-development. Toads and frogs are generally mobile and despite built and engineered development on the site, I find that there would still remain suitable access to breeding habitat for frogs and toads.
44. It is noteworthy that bats have been recorded in the immediate area. Boundary hedgerows/woodland and trees would be retained. These mainly linear features would be retained and use of the pond and the additional water feature would provide useful sources for occasional foraging. Additional mitigation measures are suggested in the Tyler Grange report dated 16 August 2022 in respect of ACO wildlife kerbs, toad/frog crossing signage and dropped kerbs in specified locations, thereby enabling amphibians to easily cross/navigate roads.
45. Subject to mitigation, which can be secured by planning condition, I conclude that there would not be unacceptable fragmentation of ecological corridors or assets. Furthermore, it is of note that the proposal also includes scrub and meadow buffer to retained parcels of woodland which would provide higher value habitat than exists now and, in this regard, I find that the proposal would provide a higher-quality field boundary connectivity for some species including bats.
46. The provision of an additional water facility on the site would also provide a 'stepping stone' habitat in a new green corridor and with connectivity to the wider landscape off-site. I do not find that the reprofiling of the existing pond to provide flood attenuation would in itself cause harm to biodiversity and the

planting proposed around its margins would seek to enhance its value to breeding amphibians and other fauna.

47. Concern has been expressed by some members of the community about the 'loss' of the pond on the site as a habitat. The appellant confirmed at the hearing that the proposal would not result in the 'loss' of a pond as such, but rather it would result in its adaption and reprofiling to create an attenuation feature which would also support similar species and would function as a habitat. The appellant confirmed that it would continue to support water on a permanent basis and that there was no reason why it would not also be capable of supporting toads and frogs for example.
48. The Council conceded at the hearing that it had not fully understood that the pond would not be 'lost' as such when it determined the planning application. I am satisfied that works to the pond could be suitably controlled and safeguarded from a habitat point of view in terms of the imposition of a planning condition.
49. As regards net biodiversity gain, the appellant has undertaken an assessment of the proposals against Biodiversity Metric 3.1 published by Natural England. The Council does not dispute the appellant's calculation that the proposal would deliver about 35.92% biodiversity net gain. It is not yet mandatory to achieve a minimum 10% biodiversity net gain as detailed in the Environment Act 2021. The Framework does, however, require proposals to demonstrate at least some biodiversity gain as outlined in paragraph 179 and this is also a requirement of policy DM44 of the Development Management DPD.
50. I conclude that the proposal would not result in harm to protected species or biodiversity and, in fact, would deliver biodiversity net gain. This is also a view reached by the Greater Manchester Ecology Unit who were consulted on the planning application and appeal. In addition, and subject to mitigation measures, the proposal would not lead to a fragmentation of ecological corridors. Therefore, and subject to conditions, I do not find any conflict with the biodiversity requirements of policy DM44 of the Development Management DPD or the Framework.

Other Considerations

51. It is common ground that the local planning authority cannot demonstrate a deliverable five year supply of housing sites. The undisputed position is very poor at 2.1 years supply. In this context, the provision of 78 dwellings would make a very positive contribution to the undersupply position.
52. While the appellant would prefer that I impose a three year commencement of development condition, there would be clear benefits associated with an early delivery of houses on the site. The appellant has not provided a compelling or persuasive reason as to why development could not be commenced within two years as detailed later on in this decision. Therefore, for the purposes of my planning balance I have factored in a two year commencement of development condition rather than the normal three years.
53. In addition to contributing positively to the supply and delivery of homes in the area, I am also satisfied that the proposal goes far enough in terms of providing a suitable housing mix in the context of viability considerations and policy DM1 of the Development Management DPD.

54. I acknowledge that the proposal would not deliver affordable housing. However, that is not in itself a matter that weighs against allowing the proposal. Indeed, policy DM3 of the Development Management DPD states *'where compelling and detailed evidence demonstrates that the provision of affordable housing in accordance with the above requirements would have a disproportionate and unwarranted negative impact on the viability of a proposed development, applicants may, in agreement with the Council, provide fewer affordable dwellings than would ordinarily be acceptable'*. It is common ground between the main parties that the scheme would not be viable with the provision of any affordable homes on or off the site and hence there would be no conflict with policy DM3 of the Development Management DPD.
55. The provision of additional housing in the area is a matter to which I afford very substantial weight in favour of allowing the appeal. Given the housing land undersupply position, paragraph 11d of the Framework and the 'tilted balance' is engaged and hence the policies which are most important for determination the application are deemed out of date. Such development plan policies are those referenced in my conclusions on the main issues. Given this position, I afford conflict with identified policies moderate weight in decision making terms.
56. There would be some economic benefits associated with the proposal in terms of new residents supporting local facilities, services and amenities. There would also be some construction employment, although I accept that this would be a short term benefit. Collectively, I attribute the economic benefits moderate weight.
57. Improvements would be made to the pedestrian route between Watery Lane and towards Ryelands Park along Torrisholme Road. Furthermore, a new formalised access would be created between the site and Barley Cop Wood thereby allowing the community at large to enjoy open space both on and off site. I afford these benefits moderate weight.
58. The evidence submitted as part of this appeal indicates that the proposal would deliver a biodiversity net gain of about 35.92%. This is also a very positive matter that weighs in favour of allowing the appeal. In addition, the provision of bird and bat boxes would make an additional positive contribution to nature conservation.
59. At the hearing, the appellant indicated that in quantitative terms more amenity open space would be provided on the site than would otherwise be required. I do not afford this very positive weight in the planning balance as a lot of this land would be hard to develop in any event owing to its topography.

Other Matters

Effect on European Protected Sites

60. There is no evidence that the development of the site itself would lead to any significant environmental effects on protected European sites. It is not considered that the site is functionally linked land in terms of the foraging and feeding of birds in association with the use of protected European sites some 2.3 km from the site.
61. On the evidence that is available to me, and supported by Natural England, the development would on its own, or in combination with other plans or projects,

likely have significant effects on the identified protected European sites detailed previously in this decision from a recreational pressure point of view. Furthermore, without mitigation the evidence is that proposal would damage or destroy the interest features for which the Lune Estuary Site of Special Scientific Interest (SSSI) has been notified.

62. As the competent authority, it falls to me to undertake an appropriate assessment of the proposal and to consider whether with mitigation the proposal would ensure that no adverse harm was caused to the integrity of any protected site.
63. I am satisfied that with homeowner information packs being issued to all residents, highlighting the sensitivities of protected sites to recreational disturbance and identifying alternative recreational opportunities in the vicinity away from more sensitive areas, the proposal would not cause adverse harm to the integrity of protected sites (including also the SSSI). Natural England concur with this view and it was also the conclusion reached by the Council in terms of its own Habitats Regulations Assessment. The aforementioned mitigation can be controlled by planning condition.

Loss of a greenfield site

64. I acknowledge that the proposal would result in housing development on a greenfield site. However, the evidence is that the local planning authority is unable to demonstrate a deliverable five year supply of housing sites in the area. While paragraph 120 (c) of the Framework indicates that decisions should give substantial weight to the value of using suitable brownfield land, in the context of the Council's housing undersupply position the erection of dwellings on a greenfield site does not in itself justify withholding planning permission for development on the appeal site.

Strategic Housing and Employment Land Availability Assessment (SHELAA)

65. I acknowledge that the SHELAA did not consider that the site was deliverable for housing largely on the basis of highway grounds and as the site was in Green Belt. However, that position can no longer be supported on the basis that the site is not in the Green Belt following the last review of the development plan and as suitable vehicular access into the site would be provided as a result of the demolition of a dwelling on Watery Lane. I do not find that the Council could have reasonably predicted that a proposal would have come forward for an otherwise landlocked site.

Loss of open views and effect on house values

66. I acknowledge that development of the site would mean a change to the open nature of the site. I do not know, on the evidence before me, if this would have a negative or positive impact on house values. However, and, in any event, the courts have held that the effect of development on house values is not a material planning consideration.

Traffic generation, accessibility, estate car parking and bus services

67. The proposal has been assessed by the LHA and while it is acknowledged that there would be additional traffic using the local highway network, including Watery Lane, there is no objective evidence before me to support a view that

the residual effect from the development either on its own or in combination with other developments would have a severe impact on the road network.

68. Furthermore, it is common ground between the main parties that the site is sustainably located. The proposal includes a new central pedestrian refuse on Torrisholme Road, together with reductions to the radii and tactile paving at the junctions of Barbon Place, Ryelands Road and Watery Lane. Furthermore, a new path would be provided between the development and Barley Cop Woods and bicycle parking would be provided on site. I do not disagree with the conclusion reached by the local planning authority that the site performs adequately in terms of its accessibility credentials.
69. Suitable car parking would be provided within the site to accommodate vehicles used by residents and visitors. There is no persuasive evidence before me to indicate that the proposal would give rise to on-street car parking demand pressures in surrounding streets or that local bus services would find it difficult to use such streets. While my site visit was only a snap shot in time, I did not notice any particular problems with on-street car parking or any significant barriers to use of the local highway network by buses.

Whether a housing need

70. Concerns have been raised about whether there is a need for more housing in the area given empty homes elsewhere in the district. The evidence is that there is a housing need. Indeed, the Council's current housing land supply position is woeful.

Living conditions – light/air pollution, noise, disturbance, outlook

71. I have considered the proposed layout, levels and position of the proposed dwellings relative to surrounding existing development. I acknowledge that for some residents in the area their essentially open and undeveloped views would change. However, the courts have held that the loss of a view is not a material planning consideration. While some of the proposed dwellings would be relatively close to the rear of dwellings in Watery Lane, owing to the orientation and separation distances involved, I do not find that they would have an unacceptably dominating or enclosing impact, or result in a material loss of privacy. In these respects, I find that there would be suitable compliance with policy DM29 of the Development Management DPD.
72. I do not doubt that use of the new access from Watery Lane would have some effect on occupiers of dwellings either side. There would be vehicular and pedestrian movements into and out of the site from this area when there are currently none. The proposed highway design changes in Watery Lane would have the effect of reducing traffic speeds in the area. This, coupled with an access build out, would ensure that there was not unacceptable conflict with users of nearby driveways or any material harm caused to the occupiers of nearby residential properties from a noise and disturbance point of view. A planning condition could be imposed relating to acoustic boundary treatment details either side of the proposed access into the site so as to suitably mitigate noise pollution and, furthermore, to minimise glare from the headlights of vehicles.
73. Overall, I find that the living conditions of the occupiers of both existing surrounding properties and those of the proposed dwellings would be suitably

safeguarded in respect of light, outlook, noise, disturbance and light/air pollution.

Emergency services access – for existing and proposed residents

74. In terms of emergency routes, the main parties agreed that the scheme is acceptable from this perspective, and there will be no adverse impact on neighbouring properties either. Specifically, neither Lancashire Fire and Rescue nor Lancashire County Council have objected to the proposal. I have no reason to disagree with the views expressed by the main parties about these matters.

Effect on local infrastructure including schools, drainage and GP practices

75. Lancashire County Council were consulted as part of the planning application submission. No request was made to provide a financial contribution to fund additional school places in the area.
76. There is no indication that surface water drainage could not be suitably addressed on the site. This is a matter that could be controlled by means of a planning condition in accordance with advice from the Lead Local Flood Authority (LLFA).
77. The request from the National Health Service to fund proposed works to the medical centre has not been justified and hence any such contribution would not meet the test of necessity. Indeed a formula approach requiring a financial contribution has been sought, but I have not been provided with any objective evidence to demonstrate where, how and why the proposal should specifically make provision for improved or additional General Practitioner (GP) practices. The test of necessity from an additional GP practice point of view is not reasonably borne out in terms of the availability of detailed evidence before me. There is common ground between the main parties about this matter.

Effect on privacy of users of nearby crematorium/memorial garden

78. While there is the potential for some noise and disturbance at construction stage in terms of the quiet use of the crematorium/memorial garden, this could be suitably addressed by a condition including the use of acoustic construction fencing in specified areas. Once the development is built and the houses occupied, I do not find that activity on the appeal site would give rise to a material loss of privacy, noise or disturbance for users of the crematorium/memorial garden.

Long term landscape and habitat management

79. Concern has been raised by other interested parties about the long term maintenance and management of open space, amenity areas and habitat. This is a matter that would be secured and controlled as part of the completed planning obligation in terms of the establishment of a management company.

Flood risk

80. The appeal site falls within flood risk zone 1. The occupiers of the dwellings would not be at risk of flooding and surface water drainage is a matter that could be controlled by planning condition as per the advice of the LLFA.
81. None of the other matters raised by other interested parties alter or outweigh my overall conclusion below.

Planning balance and conclusion

82. I have found that some limited harm would be caused to the landscape character of the area, albeit that the site is not a valued landscape in the context of paragraph 174 of the Framework. I have also found some conflict with policy DM27 of the Development Management DPD in terms of the loss of an undesignated open space site in social and environmental terms and the absence of a financial contribution to make improvements to Ryelands Park. I have concluded that no harm would be caused to protected species, that the proposal would lead to net biodiversity gain and that, overall, the development would constitute good design.
83. On balance, I conclude that the identified adverse impacts of allowing the development, including the reasoned conflict with development plan policies, would be significantly and demonstrably outweighed by the identified benefits above when assessed against the policies in the Framework taken as a whole. Consequently, the proposal would deliver a sustainable form of development and hence the appeal should be allowed.

Conditions and planning obligation

Planning obligation

84. A completed planning obligation under section 106 of the Town and Country Planning Act, dated and signed on 6 February 2023, accompanies the appeal. This includes the provision and management of an equipped play area on the site and 'amenity open space' as shown on the open space plan at annex 2.
85. In addition, the planning obligation includes a requirement to undertake a viability review appraisal on occupation of the 65th dwelling on the site to ascertain whether economic circumstances have changed and it is possible to pay to the Council an affordable housing commuted sum. There is a 'blue pencil clause' at paragraph 20 of the planning obligation. At the hearing, there was disagreement between the main parties in terms of whether a further viability review appraisal was needed in terms of affordable housing provision.
86. In respect of the above, it is noteworthy that policy DM3 of the Development Management DPD does not in itself require viability to be revisited at a future date. However, the Council claims that there is a requirement to revisit viability based on the adopted 2022 Viability Protocol SPD 2020-2031. This states that *'on large sites that are expected to be built out over a period of time or in phases, viability may need to be re-assessed at different points (such as prior to the commencement of each phase). The Council will consider whether viability needs to be assessed at various stages throughout the development and may include requirements for a review of the assessment prior to the commencement of each stage. This kind of review mechanism would normally be included in a S106 agreement'*.
87. At the hearing, the main parties agreed that there was no definition of a 'large site'. This is essentially left to decision maker judgment, but this is not a determinative matter in any event as the appellant confirmed at the hearing that it was not intended to build out the dwellings in phases. The appellant intended to build all dwellings in a single phase and within two years. I therefore do not consider that there is a requirement to undertake a further 'viability review appraisal' as detailed in the planning obligation and, in this

regard, such a requirement including the '*viability review mechanism*' is not necessary. In other words, this part of the planning obligation does not meet all of the tests for planning obligations as set out at Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations).

88. I have considered the rest of the completed planning obligation against the CIL Regulations tests. I am satisfied that in these respects the planning obligation does meet all of the tests. Such requirements are all needed to make the development acceptable in planning terms.
89. I acknowledge that the planning obligation does not require explicit provision to be made for affordable housing in the area as required by the development plan. The Council does not dispute the appellant's evidence that at this moment in time the development would be unviable in the event that affordable housing, or indeed any other financial contribution, were to be included in the completed planning obligation. I have no reason to doubt the conclusion reached by the Council in respect of viability considerations. The absence of affordable housing, and indeed any other required financial contribution, does not alter or outweigh my planning balance and conclusion above.

Conditions

90. I am satisfied that the conditions agreed between the appellant and the Council, as amended and issued following the hearing, are necessary and that they all meet the tests as outlined in paragraph 56 of the Framework.
91. For the avoidance of doubt, I have provided reasons for all the conditions after each condition in the schedule of conditions. Where necessary, I have made minor changes to the suggested conditions and reasons in the interests of precision and clarity.
92. I am satisfied that there is clear justification for imposing the pre-commencement type conditions. Such conditions have been expressly agreed by the appellant. There is clear justification in this case for removing specified permitted development rights from some of the house plots.
93. Given my on balance conclusion, and the weight that I have afforded to the provision of housing in the area, I have imposed a two year commencement of development condition rather than the standard three years. This would provide some assistance in terms of the earlier delivery of much needed homes in accordance with paragraph 77 of the Framework. While the appellant did refer to some '*difficult economic conditions*' at the hearing, no reasonable or compelling reason was provided as to why development would not actually be able to commence within the next two years. Indeed, the appellant indicated that while they would prefer the standard three year commencement of development condition, the provision of a two year commencement of development condition would not be a '*show-stopper*'.

94. There are some harms that would arise as a result of allowing this proposal and I have afforded substantial weight to the supply of homes in the area in the context of a woeful housing undersupply position. There is no credible or objective evidence before me to indicate that a two year commencement of development condition would threaten the deliverability or viability of the proposed development and, in this case, such a condition is therefore justified and necessary.

D Hartley

INSPECTOR

Schedule of Conditions

1)The development hereby permitted shall begin no later than two years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 and, in view of the housing land supply position, to accord with paragraph 77 of the National Planning Policy Framework 2021.

2)The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- 028/LOC/01 – Site Location Plan Rev D
- Application Form dated 25.11.21
- Planning Statement v2
- 19F100/001 – Lidar Survey
- 17I036/001A – Topographical Survey
- 17I036/002 – Cross Section
- Cross Sections
- 028/P/04A Sections
- Site Investigation and Ground Assessment Report BEK-19527-2 June 2019
- Preliminary Risk Assessment Report BEK-19527-1 March 2019
- Energy Statement FES Issue 1 Dated January 2021 and BWB Energy And Sustainability Statement Rev.P01 Dated 13.08.21
- Air Quality Assessment dated July 2020
- 18411_PL01_02.6.2 – Rev B – Surface Water Longitudinals East
- 18411_PL01_02.6.1 – Rev B – Surface Water Longitudinals East
- 18411_PL01_02.5.2 – Rev E – Foul Longitudinals West
- 18411_PL01_02.5.1 – Rev E – Foul Longitudinals West
- 18411_PL01_02.4.1 – Rev F Impermeable Areas Plan
- 18411_PL01_02.3.1 – Rev G Exceedance Route
- 18411_PL01_02.2.1 – Rev A Drainage Details (1)
- 18411_PL01_02.2.2 – Rev D Drainage Details (2)
- 18411_PL01_02.2.3 – Drainage Details (3) dated 14.12.20
- 18411_PL01-02.1.1 Rev L – Drainage Layout (1)
- Soakaway Test BEK Soakaway Test -BRE365-Final
- FRA and Drainage Strategy v4 M&PG Dated 09.11.21
- Householder Surface Water Maintenance Plan
- Drainage Clarification (for LLFA)
- Transport Statement
- Road Safety Audit and Technical Note HA RSA Stage 1 Dated 25.10.21 and DTPC Technical Note J330-TN1 Dated 4.11.21
- 18411_PL01-01.5 Rev D – External Works Layout
- 18411_PL01_01.4.1 – Rev A Typical Construction Details (1)
- 18411_PL01_01.4.2 – Rev A Typical Construction Details (2)
- 18411_PL01_01.4.3 – Rev A Typical Construction Details (3)
- 18411_PL01-01.3.1 Rev B - Carriageway Longitudinals (1)
- 18411_PL01-01.3.2 Rev B - Carriageway Longitudinals (2)
- 18411_PL01-01.3.3 Rev B - Carriageway Longitudinals (3)
- 18411_PL01-01.2 Rev D - Road Levels
- 18411_PL01-01.1 Rev G - Road Layout
- 028-P-06E Vehicle Charging Layout
- J330 Access Plan and Off-site Highways Fig 1 DTPC J330 Fig 1. Dated 13.05.2019
- 028/CMS/09 Traffic management strategy Rev B

- Framework Travel Plan DTPC Dated Sept 2021
- Treated Timber Clad - Urban Square UK Made Cycle Storage Solutions
- 1701-05 Tree Survey
- 028-P-08 Boundary Treatment Layout
- Tree Report Rev B
- Bird/Bat Box Plan 18/10/21
- Bat Survey Envirotech Bat Survey 39b Watery Lane Version 1 Dated 29.03.21.
- Applicant's Landscape and Biodiversity Rebuttal 29 Envirotech Dated 28.04.21.
- Updated sHRA received 18.11.2021 Envirotech Dated 18.11.21
- 11 July 2022 - BNG v3.1 Condition scores
- 11 July 2022 - BNG report
- 11 July 2022 - Amended BNG 3.1 excel
- 028-P-01J Site Layout
- 028-P-02 Elevation Material Layout Rev D
- 028-P-03D Streetscenes
- 028-WAS SPL-u-P02 Wasdale Split Up Elevations
- 028-WAS SPL-u-P01 Wasdale Split Up Plans
- 028-TOR-P02 Torver Elevations
- 028-TOR-P01 Torver Plans
- 028-RYD-P02 Rydal Elevations
- 028-RYD-P01 Rydal Plans
- 028-ROTH-P02 NDSS Rothay Elevations
- 028-ROTH-P01 NDSS Rothay Plans
- 028-HON-P02 Honister Elevations
- 028-HON-P01 Honister Plans
- 028-GRIZ-P02 Grizedale Elevations
- 028-GRIZ-P01 Grizedale Plans
- 028-GIL-P02 Gilpin Elevations
- 028-GIL-P01 Gilpin Plans
- 028-FIR-P02 Firbank Elevations
- 028-FIR-P01 Firbank Plans
- 028-DER-P02 Derwent Elevations
- 028-DER-P01 Derwent Plans
- 028-BRAY-P02 Brathay Elevations
- 028-BRAY-P01 Brathay Plans
- 028-BOW-SPL-u-P02 Bowfell Split-Up Elevations
- 028-BOW-SPL-u-P01 Bowfell Split-Up Plans
- 028-BOW-P02 Bowfell Elevations
- 028-BOW-P01 Bowfell Plans
- 028-ASC-P02 Ascot Elevations
- 028-ASC-P01 Ascot Plans
- 028-APT-02 Apartments Elevations Rev C
- 028-APT-01 Apartments Plans Rev C
- Elevations (plots 15-18) - 028/APT/P04
- Apartment floor plans (plots 15-28) - 028/APT/P03
- Apartment Plans
- Apartment Elevations
- 028-POS-01 Proposed POS-Amenity Layout
- Noise Assessment and Addendum 1750-2a and 1750-2a-i (attached for clarity)

- Lighting Assessment and Addendum 1751-2a MES Lighting Assessment with Addendum dated March 2022
- Applicant's United Utilities Rebuttal MPG Rebuttal Dated 12.04.21
- Employment and Skills Plan 14.05.21
- KBI Flexipave Details
- ESP Oakmere Band 3 Benchmarks
- West Design Report MPG Dated 31.05.21
- East Design Report MPG Dated 31.05.21
- Archaeology Desk-based assessment and survey Greenlane Archaeology Dated June 2021
- Photomontages
- Photomontage methodology
- FVAR July 2021 and Appendix no.1 to 4
- Construction method statement - Rev B

Reason: for the avoidance of doubt and in the interests of certainty.

3) No development shall commence until full construction details of the approved vehicular access onto Watery Lane, including visibility splays based on the approved drawings pursuant to condition 2 of this permission and off-site highways works indicated on drawing No J330 have been submitted to, and agreed in writing by, the local planning authority.

The access shall be constructed to base course level in accordance with the approved details before any other development pursuant to the permission takes place on site, unless temporary construction access arrangements are first agreed in writing with the local planning authority.

The access shall then be completed in accordance with the approved plans and splays, as per condition 2, to base course in full before first occupation of any dwelling on the site.

And the access shall be completed in full before final occupation of the development.

No walls, fences, trees, hedges, shrubs, ground or other structures within the approved visibility splays shall exceed 1 metre in height above the centre line of the adjacent carriageway for the lifetime of the development.

Reason: To ensure the site can be safely accessed during construction and in the interests of highway safety once the development becomes operational.

4) No development, site clearance/preparation, strip-out or demolition shall commence until a programme of archaeological work including:

A) A written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. The scheme shall consider the County Archaeology response to the planning application (dated 08/11/2021) and include an assessment of significance and research questions; the programme and methodology of site investigation and recording; the programme for post investigation assessment; provision to be made for analysis of the site investigation and recording; provision to be made for the publication and dissemination of the analysis and records of the site investigation; provision to be made for archive deposition of the analysis and records of the site investigation; and nomination of a competent person or persons/organisations to undertake the works set out in the WSI.

B) No demolition/development shall take place other than in accordance with the WSI approved under Part (A) of this condition.

C) The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the WSI approved under part (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: In the interests of the historic environment and assets.

5) Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan and Construction Management Plan shall be submitted to, and approved in writing, by the Local Planning Authority. The development shall be implemented in accordance with the agreed details.

Reason: To conserve and enhance biodiversity.

6) No development (other than the site preparation/clearance and demolition) shall commence until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development has been submitted to the local planning authority which, as a minimum, shall include: the arrangements for adoption by an appropriate public body or statutory undertaker, or management and maintenance by a Residents' Management Company; arrangements concerning appropriate funding mechanisms for its on-going maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as (i) on-going inspections relating to performance and asset condition assessments; (ii) operation costs for regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime; and, (iii) means of access for maintenance and easements where applicable.

The plan 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. Thereafter the sustainable drainage system shall be managed and maintained in accordance with the approved details.

Reason: To identify the responsible body for the sustainable urban drainage system and ensure that appropriate maintenance mechanisms are put in place for the lifetime of the development in order to reduce flood risk (as a result of inadequate maintenance).

7) All vehicular routes shall be provided to base course prior to first occupation of any dwellinghouse on the site and completed in full before completion of the development.

Internal Estate Roads, together with their full engineering and drainage, shall be implemented, managed, and maintained in accordance with the approved details as per condition 2.

Reason: In order to enable all traffic to enter and leave the site in a safe manner without causing a hazard to other road users.

8) Prior to the installation of any external lighting, a scheme for street lighting and any lighting in the areas of open space shall be submitted to, and approved in

writing by, the Local Planning Authority. Thereafter the development will be implemented, managed and maintained in accordance with the approved details.

Reason: To ensure the development is safe, to ensure light pollution is kept to a minimum and to conserve and enhance biodiversity.

9)Notwithstanding details submitted, a surface treatment plan shall be amended to reflect Road Safety Audit recommendations. This shall be submitted to and approved in writing by the Local Planning Authority prior to the construction of roads on the site. Thereafter the development will be implemented, managed, and maintained in accordance with the approved details.

Reasons: To ensure the road is safe for all modes of transport.

10)Notwithstanding details submitted, no development (other than demolition and site clearance/preparation) shall commence above slab level until details of the boundary treatments/landscaping adjacent to plots 1 and 70 is submitted to, and approved in writing by, the Local Planning Authority, and should ensure headlight glare to existing residents is eliminated. Thereafter the development shall be managed and maintained in accordance with the approved details.

Reason: To ensure light pollution is minimised.

11)Prior to the installation of the path, a scheme for a path and gate/access linking the development to Barley Cop Wood should be submitted to and approved in writing by the Local Planning Authority. The scheme should include timescales for implementation that can be aligned with construction sequence. Thereafter the development will be managed and maintained in accordance with the approved details.

Reason: To ensure the links between the site and Barley Cop Wood are maintained.

12)The approved Employment and Skills Plan (ESP) shall be adhered to throughout the construction phase of the development and the development hereby permitted shall not be carried out at any time unless the ESP is being adhered to. Prior to the first dwelling being occupied, a report evidencing compliance with the approved ESP shall be submitted to, and agreed in writing by the Local Planning Authority. If the report does not evidence such compliance, then the development shall not be occupied until a scheme of remedial measures to address and mitigate any non-compliance has been submitted to and approved in writing by the Council. No dwelling shall be occupied until the approved remedial measures have been implemented in full and the Council has confirmed the same in writing.

Reason: To enhance education, skills and employment opportunities within the District to help achieve sustainable economic development during construction and beyond.

13)The dwellings hereby permitted shall not be occupied until the details of a homeowner pack have been submitted to, and approved in writing by, the Local Planning Authority. These shall include details of the nearby sites designated for their nature conservation interest (and the wider Morecambe Bay coastline), their sensitivities to recreational pressure and shall promote the use of alternative areas for recreation, in particular dog walking areas. The homeowner packs shall be created and distributed to the approved residential property prior to first occupation.

Reason: To safeguard the conservation objectives of Morecambe Bay SPA, SAC and Ramsar site post construction.

14) The development shall not be occupied until a full travel plan has been submitted to and agreed in writing by the Local Planning Authority (LPA). The travel plan should set out: i. objectives and targets for promoting sustainable travel, ii. appointment, contact details and funding of a travel plan coordinator, iii. details of an annual monitoring and review process, iv. details of annual reporting to the LPA, v. means of funding of the travel plan, and; vi. an implementation timetable, lasting at least 5 years, including the responsible body for each action. The approved travel plan shall be implemented prior to occupation of any part of the development and shall be continued thereafter in accordance with the details therein.

Reason: To promote sustainable travel.

15) Prior to occupation, the approved recommendations set out in the submitted Phase II Site Investigation Report and validation shall be implemented. Details of implementation shall be submitted to the Local Planning Authority prior to occupation. Thereafter the development will be implemented, managed and maintained in accordance with the approved details.

Reason: To ensure the phasing of development is suitable.

16) Prior to occupation, a Landscape and Biodiversity Management and Maintenance Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented, managed and maintained in accordance with the approved details.

Reason: To ensure the development is served in perpetuity by satisfactory landscape and biodiversity management and maintenance.

17) The development hereby permitted shall implement the approved off-site highway works along Torrisholme Road as detailed in the application prior to first occupation of any dwellinghouse on the site. Thereafter the development will be implemented, managed and maintained in accordance with the approved details.

Reason: To ensure the offsite highway works along Torrisholme Road are completed in accordance with approved application.

18) The development hereby approved shall be carried out in accordance with the following approved drainage plans/supporting documents:

Drainage strategy in pursuant to condition 2 of this permission.

Drawing numbers: 18411_PL01_02.6.2 – Rev B – Surface Water Longitudinals East; 18411_PL01_02.6.1 – Rev B – Surface Water Longitudinals East; 18411_PL01_02.5.2 – Rev E – Foul Longitudinals West; 18411_PL01_02.5.1 – Rev E – Foul Longitudinals West; 18411_PL01_02.4.1 – Rev F Impermeable Areas Plan; 18411_PL01_02.3.1 – Rev G Exceedance Route; 18411_PL01_02.2.1 – Rev A Drainage Details (1); 18411_PL01_02.2.2 – Rev D Drainage Details (2); 18411_PL01_02.2.3 – Drainage Details (3) dated 14/12/20; 18411_PL01-02.1.1 Rev L – Drainage Layout (1).

The approved drainage scheme shall be implemented in full before first occupation of any of the approved dwellings. Thereafter the drainage scheme shall be retained, managed and maintained in accordance with the details set out within the

Sustainable Drainage Operation and Maintenance Plan to be agreed pursuant to condition 6 of this permission.

Reason: To ensure the site can adequately drain and to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site, to ensure safe access and egress and to reduce the risk of flooding to the proposed development and elsewhere.

19)The development hereby permitted shall be carried out in accordance with the submitted Arboricultural Implications Assessment. In particular, 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 completed and all machinery and works material removed from the site.

Reason: In the interests of the character and appearance of the area.

20)The development hereby permitted shall be carried out in accordance with the submitted Air Quality Assessment by Martin Environmental Solutions dated July 2022. In particular, the mitigation measures shall be provided in accordance with this assessment. Thereafter the development will be implemented, managed and maintained in accordance with the approved details.

Reason: In the interests of air quality in the locality.

21)The development hereby permitted shall be implemented in full accordance with the approved ecological mitigation measures and biodiversity net gain as agreed with Greater Manchester Ecology Unit. Where required by the approved mitigation, the measures shall be retained and maintained within the development at all times thereafter.

Reason: To adequately protect the biodiversity value of the site.

22)The development hereby permitted shall not be occupied or brought into use until the car parking and turning areas shown on the approved plan(s) have been provided in full and are available for use. The car parking and turning areas shall thereafter be kept available for the parking and manoeuvring of vehicles at all times.

Reason: To ensure the provision of adequate car parking on site and in the interests of highway safety.

23)Notwithstanding the provisions of the Town and Country (General Permitted Development) (England) Order 2015 (or any other Order revoking and re-enacting that Order), no development under Part 1, Classes A, B, D, E, and Part 2, Classes A and B of schedule 2 of that order shall be carried out without the express permission of the Local Planning Authority on plots 1, 6, 7, 8, 9 and 10.

Reason: In the interests of achieving high quality design, sufficient living conditions standards and appropriate drainage. Plots 1 and 6 to 10 are likely to cause the most impact due to being situated adjacent to existing gardens and due to their elevated position above the existing homes. It is necessary to protect the living conditions of residents from the potential harm that could be caused from further development.

24) No development above slab level shall commence until a landscaping scheme (notwithstanding details submitted) is submitted to, and approved in writing by,

the Local Planning Authority. The development shall be implemented in accordance with the approved details, and thereafter the development will be managed and maintained in accordance with the approved details.

Reason: To ensure the satisfactory landscaping of the site in perpetuity.

25) No development above slab level shall commence until an acoustic boundary treatment plan in relation to Nos. 39a and 40 Watery Lane (notwithstanding details submitted) has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be implemented in accordance with the approved details and thereafter retained.

Reason: To adequately mitigate for noise pollution as a result of the development.

APPEARANCES

FOR THE APPELLANT:

Daniel Hughes, Planning Director, PWA

Jon Berry, Director (Landscape), Tyler Grange

Joseph Dance, Associate (Ecology), Tyler Grange

Mark Wilkinson, Operations Director, Oakmere Homes

FOR THE LOCAL PLANNING AUTHORITY:

Frances Summers, Principal Planning Consultant on behalf of Lancaster City Council

Leanne Richardson, Principal Planning Consultant on behalf of Lancaster City Council

OTHER INTERESTED PARTIES:

Councillor Sandra Thornberry

Councillor Jean Parr

Councillor Dave Brookes

Peter Lovett-Horn (resident)

DOCUMENTS SUBMITTED AT THE HEARING

1)Email from Greater Manchester Ecology Unit dated 5 May 2022

2)Adopted Lancaster Viability Protocol SPD 2020-2031

3)Revised suggested conditions