

# RIBBLE VALLEY BOROUGH COUNCIL REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

Agenda Item No.

meeting date: THURSDAY, 11 OCTOBER 2012  
title: NON-DETERMINATION APPEAL IN RELATION TO OUTLINE APPLICATION  
FOR 21 DWELLINGS ON LAND AT 51-53 KNOWSLEY ROAD, WILPSHIRE  
submitted by: DIRECTOR OF COMMUNITY SERVICES  
principal author: GRAEME THORPE – SENIOR PLANNING OFFICER

## 1 PURPOSE

- 1.1 To advise Committee in relation to the recently received Non-determination Appeal, and request guidance on the issues relating to the Council's reasons for refusal.

## 2 BACKGROUND

- 2.1 This application was submitted and made valid on the 1 May 2012, with the thirteen-week target period ending on the 31 July 2012. After this time period, applicants do have the opportunity to appeal for non-determination however it is rare that this happens. It is standard practice to assess and aim to make recommendations on applications within 8 and 13-week periods, however in this case there is a good reason why this was not achieved.
- 2.2 No formal decision has yet been made in relation to this application, with the delay due to on-going discussions with the Agent in respect of possible amendments to the scheme. Despite these on-going discussions, the applicant has sought to Appeal against Non-Determination of the Application, therefore the purpose of this report is to gain Council and Planning and Development Committee support/approval for the following reasons for refusal that will be presented to the Planning Inspectorate as part of the Council's Statement of Case.
- 2.3 The Appeal for non-determination was received on the 28 September 2012, and upon receipt no further work will be carried out in relation to dealing with the Planning Application. Once the Appeal has been formally recognised by the Planning Inspectorate, all those persons who were notified or consulted about the Application, and any other interested persons who made representations regarding the Application will be written to and advised that the Appeal has been made.
- 2.4 The Appellant has requested that the Appeal be considered under the written representations procedure. I am of the opinion that having regard to the nature of this application and despite the level of objections that this would still be an appropriate method of dealing with this particular application. It should be noted that an appeal under written representations would not only involve less officer time due to the additional work required in preparing for a Hearing but also a speedier decision. In addition, the reasons for refusal are not considered to require expert deliberation through a Hearing procedure.
- 2.5 It is important to emphasise that objectors are still allowed sufficient time to respond formally to the Inspectorate, and as such any comments received will form part of the appointed Inspectors deliberations. All existing objections will be sent to the Inspectorate.

2.6 The Planning Inspectorate would make the ultimate decision on the how the appeal is dealt with, but it is my opinion that a written representation method is appropriate.

### 3 ISSUES

3.1 In cases on Non-determination Appeals, it is important to gauge the views of the Planning and Development Committee in order that Committee Members are satisfied with the Officers Report. The Report will partially form the basis of the Council's Statement of Case in regards to the Appeal.

3.2 To advise Committee a report has been quickly produced and appended to this Report giving details of the representations received and the issues arising. As Committee will note, there has been a great deal of public interest with this proposal.

3.3 On the basis of the merits of the case, it is considered that should a formal recommendation have been made to Planning and Development Committee, it would have been one of refusal for the following reasons:

1. The proposed development given its layout, scale and siting would have a detrimental impact on the adjacent residential amenity by virtue of overlooking and thus impacts on the privacy and as such be contrary to Policy G1 of the Districtwide Local Plan and guidance contained within the NPPF.
2. The proposed layout of the scheme is considered to be excessive in its density, it would create a cramped layout out of keeping with the locality and its approval would be an over-development of the site to the visual detriment of the locality and the streetscene. Approval of the scheme would be contrary to the guidance provided within paragraphs 53, 58, 60 and 64 of the NPPF, and Policy G1 of the Local Plan.
3. With regards to the protected species survey for both properties, as they do not comply with the guidance contained within the Bat Surveys Good Practise Guidelines 2nd edition, the application should be refused as approval of the proposal without the site being formally and appropriately assessed would be contrary to the provisions of the Conservation of Habitats and Species Regulations 2010.

### 4 **RECOMMEND THAT COMMITTEE**

4.1 Advise that they would have been minded to refuse the Application for the above reasons.

4.2 Advise the Inspectorate that the Council have no objections to the Written Representations procedure in connection within this Appeal.

GRAEME THORPE  
SENIOR PLANNING OFFICER

JOHN HEAP  
DIRECTOR OF COMMUNITY SERVICES

### BACKGROUND PAPERS

Application Reference Number 3/2012/0401/P

For further information please ask for Graeme Thorpe, extension 4520.

## APPENDIX

### RECOMMENDATION FOR PLANNING AND DEVELOPMENT COMMITTEE

#### **MINDED TO REFUSE**

**DATE: 11 OCTOBER 2011**

**REF: GT**

**CHECKED BY:**

APPLICATION NO: 3/2012/0401/P

(GRID REF: SD 368515 432290)

OUTLINE APPLICATION FOR THE PROPOSED RE-DEVELOPMENT OF THE SITE FOR RESIDENTIAL PURPOSES AT LAND AT 51-53 KNOWSLEY ROAD, WILPSHIRE, LANCASHIRE, BB1 9PN

WILPSHIRE PARISH  
COUNCIL:

Wilpshire Parish Council OBJECT to this application for the following reasons:

1. 3 storey development is totally out of character in Wilpshire,
2. Inappropriate development for the site,
3. Over development of the site,
4. Increased volume of traffic onto Knowsley Road, and
5. Parking issues.

They also believe there is Japanese Knotweed on the site.

BLACKBURN WITH  
DARWEN BOROUGH  
COUNCIL:

No comments to make on the application.

ENVIRONMENT AGENCY:

No comments to make on the application.

LCC PLANNING  
CONTRIBUTIONS:

No formal request for contributions at the time of the applications submission.

LCC ENVIRONMENT  
DIRECTORATE  
(COUNTY SURVEYOR):

Whilst no formal comments have been received at the time of the reports submission, I am aware that the LCC Highways Officer raises no objection to the principle of development on the site and he is satisfied that suitable access and parking arrangements can be achieved without causing any highway safety or capacity issues.

ADDITIONAL  
REPRESENTATIONS:

Ninety six (96) letters/e-mails have been received in relation to this application all sent in objection to the proposal. The letters sent all strongly object to this proposal, however due to the vast number of letters, the points of objection have been simplified as follows:

1. The site will be forever changed from a two beautiful family dwellings to a concrete jungle,
2. The apartment block will dominate the streetscene,
3. Surely a scheme for bungalows would be more in keeping with this location in Wilpshire,

4. Serious impact on highway safety,
5. Serious over-development of the site/density proposed is excessive,
6. Three storey development is out of keeping,
7. Loss of light to neighbouring properties,
8. Impact on amenity of occupiers of neighbouring properties/Loss of privacy,
9. Over-bearing development that would be to the visual detriment of the street scene,
10. Surely a transport assessment should have been carried out before submitting the scheme,
11. Design of the scheme is entirely out of character with the area,
12. Submitted plans are inaccurate,
13. Loss of a heritage asset from the site,
14. No. 53 should be Listed,
15. Surely 53 could be converted into flats?
16. Insufficient notification has been sent out in relation to the proposed application,
17. Contrary to National and Local Planning Policies,
18. Bulk, massing, detailing and materials are all out of keeping with the locality,
19. Noise impact,
20. Increase in congestion on Knowsley Road,
21. No open/recreational space provided,
22. The developer has not consulted with the community prior to the application being submitted,
23. Infrastructure here is unsuitable for more dwellings,
24. The modern design of the proposals is unsuitable,
25. Loss of trees on site,
26. Detrimental to pedestrian safety,
27. No demand for two bed apartments in Wilpshire,
28. Construction process presents potential hazards,
29. Insufficient parking proposed for the site,
30. Knowsley Road is used as a 'rat run' and thanks to its recent refurbishment is now a speeding death trap,
31. The new entrance will be too close to the vehicular access to nos 47 and 49,
32. Will the affordable houses ACTUALLY be affordable?
33. The newly laid Knowsley Road would need to be dug up causing further disruption,
34. The bat survey indicates that the roofs were not properly inspected so surely a further survey is required before being approved?
35. No ecological survey provided for the site,
36. Loss of habitats, and
37. Impact on school places.

### **Proposal**

This is an Outline Application for the proposed re-development of a site currently home to two dwellings for residential purposes. The application proposes the demolition of these two large dwellings in order to erect 21 dwellings. These will take the form of one detached four bedroom dwelling; 4 no. three bedroom dwellings in a short terrace; 2 no. pairs of three bedroom semi-

detached dwellings; and 12 two bedroom apartments in the form of two three storey blocks linked together. The reserved matters for which approval are sought are the 'Access, Layout and Scale', and the plans highlight the proposed layout and access point to be created/used from Knowsley Road.

### **Site Location**

The application concerns the re-development of a site that extends to approximately 0.35 hectares, that is largely rectangular in shape and that is currently home to two large residential properties. The site lies within an established residential area, with houses to either side and on the opposite side of Knowsley Road. The site slopes from the northern boundary of the site southwards at a steady fall, with a difference in land levels being approximately 3.7m from the northern boundary to the southern most part of the site. The site lies wholly within the old Local Plan settlement boundary of Wilpshire, and is bounded by Green Belt to the western boundary edge.

### **Relevant History**

3/2003/0936/P – Extension and refurbishment of existing dwelling – Granted Conditionally.

### **Relevant Policies**

Policy G1 - Development Control.  
Policy G2 – Settlement Strategy.  
Policy H10 - Residential Extensions.  
Policy T1 – Development Proposals – Transport Implications.  
Policy T7 - Parking Provision.  
Policy ENV7 – Species Protection.  
Policy ENV13 – Landscape Protection.  
SPG 'Extensions and Alterations to Dwellings'.  
Policy L4 of the Regional Spatial Strategy (RSS).  
Policy L5 of the Regional Spatial Strategy (RSS).  
National Planning Policy Framework.  
Conservation of Habitats and Species Regulations 2010.  
Bat Surveys Good Practise Guidelines 2nd Ed

### **Environmental, AONB, Human Rights and Other Issues**

This application was submitted and made valid on the 1 May 2012, with the thirteen-week target period ending on the 31 July 2012. No formal decision has yet been made in relation to this application, with the delay due to on-going discussions with the Agent in respect of possible amendments to the scheme. Despite these on-going discussions, the applicant has sought to Appeal against Non-Determination of the Application, therefore the purpose of this report is to gain Council and Planning and Development Committee support/approval for the following reasons for refusal that will be presented to the Planning Inspectorate as part of the Council's Statement of Case.

This is an Outline Application for the proposed re-development of a site currently home to two dwellings for residential purposes. The reserved matters for which approval are sought are the 'Access, Layout and Scale'. The application proposes the demolition of these two large dwellings in order to erect 21 dwellings. These will take the form of one detached four bedroom dwelling; 4 no. three bedroom dwellings in a short terrace; 2 no. pairs of three bedroom semi-detached dwellings; and 12 two bedroom apartments in the form of two three storey blocks linked together. The application site lies within an established residential area, with houses to

either side and on the opposite side of Knowsley Road. The site lies wholly within the old Local Plan settlement boundary of Wilpshire, and is bounded by Green Belt to the western boundary edge.

The scale parameters for each of the different residential unit types are as follows:

- Unit 1: Four bed detached house.
  - Height to eaves 5.8m. Height to ridge 8.8m.
- Units 2-5: Four no. three bedroom townhouses.
  - Height to eaves 5.3m. Height to ridge 9m.
- Units 6-9: Two pairs of three bedroom semi-detached dwellings.
  - Height to eaves 6.1m. Height to ridge 9.6m.
- Units 10-21: Twelve no. two bedroom apartments.
  - Height to eaves 7.1m. Height to ridge 10.1m.

## PRINCIPLE OF DEVELOPMENT

The starting point in relation to policy principles is the development plan. This has two elements, the Regional Spatial Strategy (whilst soon to be abolished remains extant) and the Districtwide Local Plan – Saved Policies. The policies of the recently published NPPF must then be considered with a judgement being made in relation to the weight of the key material considerations. The RSS provides a position in relation to the housing requirements, affordable housing and the broad focus of development. Primarily, Policy L4 and L5 are significant policies in this case.

For decision-making purposes, the Council has adopted the RSS housing requirement pending its review through the preparation of the Core Strategy. The RSS requirements plans for some 161 units per year against which the Council can demonstrate a 5.82 year supply at present. The Core Strategy seeks to plan for 200 units per year, however the scale of requirement has been subject to significant and extensive objections that remain to be resolved through the examination process and at this time, the Council attaches less weight to this element of the Core Strategy. Whilst the Council cannot demonstrate a five-year supply against this requirement, it should be borne in mind that whilst a five-year supply can be demonstrated against the RSS requirement, this is not a maximum or ceiling and development needs to be considered against the principles established in NPPF around the presumption in favour of sustainable development.

In terms of the saved Local Plan policies, in general terms the proposal site is within the existing settlement boundary and is located in a settlement where development would be directed. In that regard, it is consistent with the Local Plan.

Similarly, the settlement strategy in the Districtwide Local Plan as a principle is considered out of date in relation to both settlement boundaries and the development constraints that are set out. This is because that plan which was formed in the early 1990s and premised upon the relevant Lancashire Structure Plan policies applicable at that time, was established to control development, including housing growth against the strategic framework existing at that time. The adopted Local Plan (adopted 1990) had its strategic basis superseded by the Regional Strategy in 2008 and has been the subject to a review process as a consequence of the Core Strategy and with the Council's current position reflected in the submission Core Strategy. For these reasons I consider that the development principles must be considered out of date. That is not to say that the consideration of the impact of the development upon visual amenity and the character of the area should not be considered. However, I do consider that the underlying principle of development falls now to be determined against the NPPF.

NPPF emphasises the need to base decisions on the development plan, unless material considerations indicate otherwise. The NPPF is clearly a material consideration as up to date national planning policy. The most significant material consideration is that of the presumption in favour of sustainable development, with paragraph 49 of the NPPF highlighting that housing applications should be considered in the context of that presumption. The presumption confirms that where the relevant policies of a development plan is considered out of date, permission be granted unless:

- Any adverse impacts of doing so would *significantly* and *demonstrably* outweigh the benefits when assessed against the policies of the framework.

In assessing this site, it is considered to be in a sustainable location, would contribute to the supply of housing including affordable provision and market choice, and it would be consistent with the policies of NPPF to proactively drive and support economic growth. In addition, the impact upon overall housing supply and development strategy would not be so significant to the overall provision to cause harm to the submission Core Strategy and consequently overall is not considered to either significantly or demonstrably outweigh the benefits listed above as a matter of principle. The development of the site in principle would therefore accord with the presumption in favour of sustainable development and is consequently consistent with the provisions of NPPF which has relevant material consideration, given the view that relevant policies of the development plan are out of date. However, there are of course other detailed development management considerations such as access, visual impact and such like that would need to be satisfied in relation to the application as a whole.

#### LAYOUT/VISUAL IMPACT/SCALE

The current layout of the site comprises two large detached dwellings within quite substantial grounds that add a sense of openness to this particular location on Knowsley Road. Indeed it is considered that relatively large dwellings on large plots typify the layout and density of this particular area of Knowsley Road. The scheme submitted is to demolish these two dwellings, create one single access point from Knowsley Road and erect nine dwellings plus 12 apartments on the site, a net gain of 19 new residential units on this area of land.

There are two elements of the scheme that are considered appropriate and acceptable, namely the pair of semi-detached units at the rear (to the west) of the site and the new-detached property on the Knowsley Road frontage. These two elements are considered suitably located and to an appropriate scale that they would have no significant impact on the occupiers of neighbouring dwellings.

The other two blocks of housing, namely the block of terraced properties in the centre of the site and the three storey block of apartments on the Knowsley Road frontage, do not accord with the locality and appear misplaced and out of keeping. The overall scale of the proposed three storey apartments, whilst not too dissimilar to the scale of the existing property on this site (no. 53), is considered excessive, and due to its prominent location on the street frontage of Knowsley Road, would impact on the character of the street scene to its visual detriment. With specific regard to the block of terraced properties within the centre of the site, due to their position on site, the short distance between the most easterly positioned unit and the corner of the apartment block, the small amenity areas to the rear of the buildings and the large number of private and shared parking spaces in front of the dwellings, these units appear cramped and ill-conceived. The spacing and density on site is particularly worsened by these units in particular as they require the access road and parking spaces to be tightly positioned to the boundaries and also reducing the openness for the two pairs of units at the rear of the site.

Paragraph 58 of the NPPF notes that ‘Local and neighbourhood plans should develop robust and comprehensive policies that set out the quality of development that will be expected for the area. Such policies should be based on stated objectives for the future of the area and an understanding and evaluation of its defining characteristics. Planning policies and decisions should aim to ensure that developments (amongst other things):

- function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- are visually attractive as a result of good architecture and appropriate landscaping.

Paragraph 60 provides further guidance on assessing schemes noting that ‘Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.’ Paragraph 64 continues such advice stating that ‘Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.’

On this basis, and considering the advice within paragraph 53 of the NPPF that ‘Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area’, whilst the site would comfortably house more units than the existing two in situ, the proposed scheme to erect nine dwellings plus 12 apartments on the site is considered to be excessive and would be an over-development of the site. Its approval would be contrary to the guidance provided within paragraphs 53, 58, 60 and 64 of the NPPF, and Policy G1 of the Local Plan, and it would be to the visual detriment of the locality and the streetscene.

## ACCESS

Whilst no formal comments have been received at the time of the reports submission, I am aware that the LCC Highways Officer raises no objection to the principle of development on the site and he is satisfied that suitable access and parking arrangements can be achieved without causing any highway safety or capacity issues. A more detailed response will be presented to Committee on the night.

## IMPACT ON RESIDENTIAL AMENITY/LOSS OF PRIVACY

Policy G1 of the Districtwide Local Plan advises that ‘Developments should provide adequate daylight and privacy’ and that ‘Development should be sympathetic to existing and proposed land uses in terms of its size, intensity and nature’. This is also supported by paragraph 53 of the NPPF. With regards to appropriate spacing distances, the SPG ‘Extensions and Alterations to Dwellings’ advises that a distance of 21m (direct) should be adhered to between habitable room windows, and that first floor habitable room windows should not be positioned to allow unrestricted views into neighbouring gardens.



There are two elements of the scheme that provide most concern, namely the views from the rear elevation of the row of terraces in the centre of the site, and the views from the three-storey apartment block. Recent appeal decisions have supported the Council's concern for developments causing a loss of privacy and in this case given the distance of 8.2m between the rear elevation of the most easterly positioned end terrace unit and the northern boundary of the site that borders the rear garden of no. 55 Knowsley Road. It is considered that any rear facing bedroom windows in the proposed house would afford views into rear garden area of this property, with the potential also for views into habitable rooms, despite the orientation, leaving the occupiers with a strong sense of intrusion. The views from the three-storey apartment block also raise concern despite the building being over 21m from the front elevations of numbers 49 and 54 Knowsley Road. The proposed first and second storey windows within the apartments would directly overlook the front garden areas of these properties, which are both, clearly used for enjoyment. It is appreciated that the front-facing rooms and garden at no. 54 can already be seen to some extent from the road, however it is considered that the proposed development would result in an unacceptable increase in actual and perceived loss of privacy at both properties. Landscaping would not overcome the harm, because any planting on the boundary high enough to screen first/second floor windows would be likely to block light to those windows and would therefore prejudice the living conditions of future occupiers of the development.

On this basis, it is considered that the development would have an unacceptable impact on the amenity of the occupiers of the adjacent dwellings.

#### LOSS OF NO. 53

A number of letters of objection concern the loss of no. 53 Knowsley Road, mainly due to its age and considerations regarding its character. Having considered the age of the property (it appears on the 1940s aerial views on the LLC Mapzone website) the building could be considered a non-designated heritage asset. Paragraph 135 in the NPPF advise that 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.' Having visited the site and having assessed the building, I do not consider that the significance of the non-designated heritage asset is sufficient enough to outweigh its retention on site as part of any redevelopment on this site. Whilst having an attractive streetscene frontage, the northern and western elevations of the building have been altered so significantly that the building has very little of its original character remaining. I would therefore not recommend the refusal of this scheme on the basis of the loss of this building.

#### IMPACT ON ECOLOGY/TREES

Having discussed the scheme with the Council's Countryside Officer, he notes that the majority of the trees within the red edge and identified in the tree survey details are classified as category C2 trees. These are trees that are considered to be of low quality and value with limited conservation or other cultural benefits, and as such are not usually retained where they would impose a significant restraint on development. There are also 6 trees identified that are growing outside the red edge but that are within influencing distance of the proposed development, of these it is recommended that one, a Norway maple should be removed due to its condition. For the remaining trees it is recommended that some remedial pruning is carried out but there is a question mark over ownership and some aspects of the proposed development does encroach into the Root Protection Area by around 30% [20% is the recommended max for open grown trees], which technically the ones in question are not.

He notes that the previously felled trees on site were probably of most visual amenity value and as such the trees within the red edge to be lost may not have a significant impact on the visual amenity value of the wider treescape. However, the loss of trees outside the red edge will have more of an impact and therefore in order to ensure their longer-term survivability it is important to ensure that they are afforded maximum physical protection. He notes that this is not made clear on the proposed plans and that this should be confirmed before any formal decision is made.

With regards to the protected species survey for both properties, whilst they do not record presence of bats an updated and more detailed survey will be required if any part of the development/demolition is delayed beyond September 2012, in order to eliminate possibility of mating/hibernation roost [In the instance of no 51 Knowsley road a dusk survey will be required]. On this basis, as the submitted reports do not comply with the guidance contained within the Bat Surveys Good Practise Guidelines 2nd edition, then it could be considered that the application should be refused as it does not comply with the Conservation of Habitats and Species Regulations 2010.

As the land is residential curtilage for the existing dwellings on site, there was considered to be no requirement for a Phase One Ecological Survey to be carried out on this site prior to the determination of this Outline Application.

## CONCLUSION

In conclusion, on the basis of the above, the application as proposed cannot be considered acceptable due to it being at variance with the relevant local and national planning policies and guidance, and it is respectfully requested that Members of the Planning Committee endorse the following reasons for refusal that will be presented to the Planning Inspectorate as part of the Council's Statement of Case in the forthcoming Appeal relating to this proposal.

**RECOMMENDATION:** That Committee endorse the reasons for refusal that will be presented to the Planning Inspectorate as part of the Council's Statement of Case.

1. The proposed development given its layout, scale and siting would have a detrimental impact on the adjacent residential amenity by virtue of overlooking and thus impacts on the privacy and as such be contrary to Policy G1 of the Districtwide Local Plan and guidance contained within the NPPF.
2. The proposed layout of the scheme is considered to be excessive in its density, it would create a cramped layout out of keeping with the locality and its approval would be an over-development of the site to the visual detriment of the locality and the streetscene. Approval of the scheme would be contrary to the guidance provided within paragraphs 53, 58, 60 and 64 of the NPPF, and Policy G1 of the Local Plan.
3. With regards to the protected species survey for both properties, as they do not comply with the guidance contained within the Bat Surveys Good Practise Guidelines 2nd edition, the application should be refused as approval of the proposal without the site being formally and appropriately assessed would be contrary to the provisions of the Conservation of Habitats and Species Regulations 2010.