

Wigan Council

Report to Planning Committee

9th March 2010

Application No: A/08/71514 (Video)

Speaking arrangements:

Major development. One speaker against for 4 minutes One speaker in favour for 4 minutes.

Applicant: Wainhomes Developments Limited

Agent: MCK Partnership Ltd

Development Proposed: To erect 13 No. dwellinghouses with associated access and landscaping. (Re-submission of A/07/70186)

Location: Land To Rear Of 281-287 Bradley Lane And Rear Of 63-69 Bentham Place Standish

Ward: Standish With Langtree

This planning application was deferred by Committee for a site visit at the Planning Committee on 18 August 2009.

Representations

25 letters of objection.

Objections have also been received from Councillor's Whittingham and Atherton who also requested that the application be determined by Planning Committee.

Site Description:

The application site consists of an area of open land that until recently had extensive tree cover. The site is located to the rear of properties along Bradley Lane to the North West and Bentham Place to the south west. The Bradley Hall Trading estate is located to the north east and south east of the site. The site is accessed from the side of 287 Bradley Lane. The ground level of the site drops significantly from the rear of the properties on Bradley Lane and to a lesser extent the properties along Bentham Place. A Brook runs across the site from south west to north east.

Proposals:

The application is for the erection of 13 two, two and a half and three storey residential properties with associated access from Bradley Lane. Plots 1 and 2 are two-storey properties, Plots 3 - 6 are three storey properties and Plot 7 is a 2.5 storey property. These plots back on to the western boundary of the site. Plots 8 and 9 are three storey properties

and plots 10 - 13 are 2.5 storey properties and are located on the south eastern boundary of the site.

Supplementary Documents

Design and Access Statement

Noise Assessment

These documents are available for inspection by the Committee on request in the Department and are available on the website.

Policy Context

UDP Allocation:

The majority of the site is unallocated land within the urban area; however the access road into the site is partially located within the Bradley Lane Primary Employment Area.

Relevant Policies/Guidance

National Guidance

Planning Policy Statement 3: Housing

Regional Spatial Strategy for the North West

L4 - Regional Housing Provision.

UDP Policies:

EM1A - Primary Employment Areas

R1B - New Housing Sites

R1D - The Design of New Residential Development and House Extensions

R1E - Open Space in New Housing Developments

C1C - Protection of Open Space and Sport and Recreation Provision.

G1C - Development and Flood Risk

EV3A - Design of New Development

Previous Relevant Decisions:

A/9457/78 - Detached bungalow. Refused 27.07.1978

A/14912/80 - Erection of a detached double garage. Approved 16.04.1980

A/18066/81 - Erection of stables. Approved 27.07.1981, this permission was never implemented.

A/07/70186 - To erect 15no. dwellinghouses with associated access road. Refused 01.02.2008

Consultations:

Highways Engineer - No objections following receipt of amended plans.

Drainage Engineer - No objections subject to a number of drainage related conditions and that the Environment Agency is contacted for their views.

Environmental Protection - No objections subject to conditions relating to noise protection.

United Utilities - Objected to the application as originally submitted as United Utilities have a 14" water supply trunk main crossing the site and an easement of 5 metres either side of this is required for maintenance. However they have since confirmed that if they allow the main to remain then the developer would have to enter into a Deed of Grant which would restrict what could be planted or placed in the easement width. Purchasers of the affected plots would buy subject to the rights and covenants contained in the Grant.

Environment Agency - No objections to the proposal subject to an informative relating to Japanese Knotweed.

Representations

25 letters of objection have been received in connection with the application. Objections have also been received from Councillor's Whittingham and Atherton who also requested that the application be determined by Planning Committee.

The points of objection relate to;

- Removal of trees before the application was submitted.
- Impact of ecology on the site as a result of the lost trees and proposed development on the site.
- Overshadowing of properties on Bentham Place.
- Impact on privacy of properties on Bentham Place and Bradley Lane.
- Increase in traffic using Bradley Lane and the wider area leading to increased congestion.
- Local infrastructure cannot cope with additional development.
- Poor location of the access into the site.
- Site is at risk of flooding.
- Scale and layout of the development.
- Increase in noise from industrial estate due to the loss of trees.
- The site is a greenfield site and is therefore inappropriate for residential development.
- No need for additional houses in Standish.
- Noise and disturbance during building works.
- No public transport in the evening.
- No facilities for children to play.
- Plans not changed since refusal.
- Noise report inadequate.
- Increase in pollution
- Culverting of the stream is not acceptable.
- Backland development and previous refusal for a house on this site.

A sample of the letters received are attached.

Assessment

Material Considerations:

Principle of Development

Design and Layout

Impact upon amenity

Highway Safety

Impact on Ecology

United Utilities Comments
Public Open Space and Play Provision.
Observations on Representations Received

Principle of Development

The principle of development must be considered in respect of Policies R1B, EM1A and C1C.

The access into the site is located within a Primary Employment Area and therefore Policy EM1A is relevant. It is considered that the use of land for the access complies with clause (b) of the policy as the land is on the fringe of the allocation and it does not provide any greater constraint on the development and use of the remaining allocation. Therefore the proposal complies with Policy EM1A.

In terms of Policy R1B the applicant has stated that the site is the garden curtilage of 283 Bradley Lane. Although there is no precise definition of what curtilage actually is the matter has been given careful consideration taking into account the specific site details. Previous case law shows that curtilage relates to buildings and the land intimately associated with and integral to the use of the building, although it also depends on the individual characteristics of the site. The site in this case is separated from the enclosure that is 283 Bradley Lane by a communal rear access road and an area containing a garage and a maintained lawned area. In my view it therefore cannot be considered to be the curtilage of this property. Previously in this report the relevant past applications have been highlighted. These clearly show that at the time these applications were submitted the land in question was not considered to be the actual garden curtilage of 283 Bradley Lane. In addition to this no lawful use certificate has been applied for and no evidence has been submitted that justifies the applicant's claim. Therefore, when applying the definition in Annex B of PPS3 the site is a greenfield site.

As a greenfield site it must be demonstrated that the site is a sustainable one by performing well against the tests set out by Policy R1B and PPS3. It is considered that it has been suitably demonstrated in the applicant's supporting statements that it is a sustainable site as it has good access to local employment opportunities, services, shops and schools. The site is located within 650 metres of 2 no primary schools and 800 metres of Standish Town Centre which provides a range of shops and services, including a supermarket. The site is located on a bus route providing services to Wigan and the centre of Standish on an hourly basis on services 640 and 641. These services commence at approximately 07:30 and finish at approximately 19:00 with a total of 15 buses passing the site in each direction per weekday. As stated the site is within 800 metres of Standish town centre, the A49 that runs through the centre of Standish is a quality bus corridor with regular services to Chorley, Wigan and St Helens. Physical constraints relating to the site are discussed below. Therefore it is considered that the site is located in a suitably sustainable location and the principle of residential development is acceptable, subject to the issues of the on-site constraints and amenity. As such I consider the proposal will build on the existing community.

As the site is considered to be a greenfield site it must be determined if the site should be considered to be open space and therefore subject to the tests contained in Policy C1C or if the proposal is simply for a residential proposal on a greenfield site where Policy R1B is relevant.

The types of land that have open space of public value are listed within Policy C1B and the most relevant to this application is amenity greenspace. It is clear that the predominant use of the site is not in use as an amenity greenspace. The site does not form any formal amenity area as it is not publically accessible and is not prominent in views from public vantage points being only visible from the rear of the properties in this area on Bradley Lane and Bentham Place. It has therefore been determined that the land does not constitute an area of useable recreation open space or as having a very high visual amenity streetscene value as defined in Policy C1B and that the principle of development should be determined primarily against the sustainability criteria within Policy R1B rather than Policy C1C.

Design and Layout

The size, shape and topography of the site all restrict the layout of the site. The access road is proposed to be located at the side of 287 Bradley Lane and upon entering the site the road bends right and 7no properties are to be located to the south of the access road. These consist of a pair of semi-detached two storey properties, two pairs of three-storey semi detached properties and a detached 2.5 storey property. The design of these properties is considered to be satisfactory; they incorporate local design features such as stone detailing around the windows to provide some visual interest in the street scene. The gable features along the front of the three-storey properties help to provide some variation in the roofscape along the row of properties. The previous layout as submitted in application A/07/70186 contained two large terraced blocks on the site of plots 1 - 7 containing 8no properties. The layout of these properties has been amended to remove a unit allowing for semi-detached properties to be incorporated within the scheme reducing the scale and mass of the properties. Although the height has only slightly been reduced the spaces between the dwellings have been improved and the layout and design in this part of the site has been considerably improved.

The remaining 6 properties are located along the south eastern boundary of the site consist of 2 pairs of semi-detached properties joined together to form a terrace of 4 properties that are 2.5 storeys in height, and a pair of three storey semi-detached properties. Plots 10 - 13 are the 2.5 storey properties; these have a bedroom in the roofspace with front and rear dormers providing additional headspace and light to this room. These properties also incorporate stone detailing around the windows along the front elevation to provide some form of visual interest. The dormers at the front of the dwellings are modest in size and respect the scale of the roof upon which they are located. Each property has just the one dormer front and rear. The terraced block of properties is considered to relate in scale and mass to its proposed neighbouring properties and therefore this is considered to be acceptable.

Impact upon Amenity

The relationship between the properties on Bentham Place and those proposed requires careful consideration in respect of the amenity of both existing and prospective residents. The ground level of the site is considerably lower than that of Bentham Place. Plots 1 and 2 are located 23.6 metres from 63 Bentham Place. These plots are 2 storeys in height and it is considered that the relationship between them will not result in unacceptable overlooking and overshadowing. The proposed properties are some 3 metres lower in ground level than the property at 63 Bentham Place and the required interface distance between these properties is 24.5 metres. I consider that there is little impact on the amenity of 63 Bentham Place as a

result of the difference in ground levels but the amenity of any perspective occupier must also be considered. In this instance this interface distance is adequate as the length of the gardens on plots 1 and 2 is 12.5 metres, which represents a generous garden length, and planting will provide screening along the boundary of the site with 63 Bentham Place.

Plots 3 - 5 are located 24.5 metres from the rear of 67 and 69 Bentham Place. Because of the relationship of the levels and the existing and proposed houses I consider the required interface distance in this instance is 24.5 metres and this has been complied with. The impact on the existing properties is reduced by the fact that the ground level is lower within the application site by approximately 2 metres. The eaves level of the proposed property is in fact lower than that of 67 Bentham Place so the impact will be identical to that of a two-storey property. It is considered that these properties have an acceptable relationship with those properties on Bentham Place.

The distance between 74 Copeland Drive and the side elevation of plot 8 is 19 metres. This is acceptable as the required interface distance would be 15.2 metres, however given the change in levels the eaves level of the proposed property is lower than that on the existing property and it is considered that the relationship between the properties is acceptable.

The existing properties that front Bradley Lane are located 40 metres from the side elevation of the nearest proposed property and like the properties on Bentham Place these properties are elevated above the site and it is considered that the proposal will have no impact on the amenity of these properties.

As part of the application a noise report has been submitted. This concluded that the noise from the industrial estate was not significant and that certain mitigation measures would alleviate any impact. This will be controlled by condition.

Highway Safety

The Council's Highway Engineer has no objections the proposal. The additional properties would represent only a modest increase in the traffic using Bradley Lane and this would not threaten the capacity of the local highway network. The access into the site achieves the required visibility standards and therefore will not have any detrimental impact upon highway safety.

Impact on Ecology

The Environment Agency has been consulted and following the amendment of the layout have no objections to culverting the brook. The brook is considered to have little in the way of ecological value and poses little in the way of flood risk.

A number of large trees were removed from the site prior to the submission of this application and the site was cleared. This removed any potential habitat on the site that could serve any protected species and it is considered that the site is of little ecological value. This is unfortunate but none of trees were protected and replacements will be required as part of the landscaping scheme. This meant that any habitat of ecological value was removed at that time and it is not possible to do any further assessment of what previously existed at the site.

United Utilities Comments

United Utilities objected to the planning application on the basis that a water main crosses the site. This is an unusual approach for this company to be taking. United Utilities have previously allowed gardens to be built over main sewers and water mains, without raising objections. Since the application was previously reported to Committee further information has been provided by United Utilities. It states that should the application be approved the applicant would have to agree a deed of grant to restrict what can be placed within the easement. This would allow occupiers to have only shallow rooted plants and a lawn within the rear garden with no structures being permitted that would place a structural burden on the water main. Should United Utilities require access to the water main they have the right to do so and are under no obligation to return the land to its former state.

This is an unusual situation and means that in effect planning permission is being granted for 6 houses that would only ever be able to have rear gardens with lawns and flowerbeds and very little room for normal ancillary garden 'facilities,' such as patios and sheds. However, it is not considered that this provides grounds to substantiate a reason for refusal of planning permission. Potential purchasers/occupiers will be aware of this before moving into the property as a result of the deed of grant and can make an informed decision as to whether this is appropriate to their lifestyle. Permitted development rights for these properties will be removed by condition to ensure that no extensions to the properties can be erected that would encroach onto the easement.

Public Open Space and Play Provision.

The proposal requires a financial contribution for the provision and maintenance and public open space and play provision. Despite the time that has elapsed since this was last reported to Committee the applicant has yet to return a signed Unilateral Undertaking. A verbal assurance has been received that one is being prepared. The Applicant has now indicated a desire to enter into a full Section 106 Agreement rather than sign a Unilateral Undertaking. It would be unreasonable not to agree to this request as it is not unusual for applications to be recommended for Approval Subject to the completion of a Section 106 Agreement. Therefore the recommendation is that Committee are minded to approve the application Subject to the signing of a Section 106 Agreement for the payment of a commuted sum towards POS and Play provision.

Observations on Representations Received

It is considered that the majority of the points of objection have been addressed above.

- Local infrastructure cannot cope with additional development.

There is no evidence to suggest that the local infrastructure cannot cope with a development of this size.

- Removal of trees and impact on ecology before the application was submitted.

This is unfortunate, however this is beyond the control of the local planning authority as the trees were not subject to any Tree Preservation Order. The ecological value of the brook is considered to be minimal.

- Noise and disturbance during building works.

A condition will be imposed on the decision notice for details of location of compound and storage of materials to minimise any impact on neighbouring properties. It is likely some impact will occur as it can rarely be totally avoided during building works, but this will only be over a short period of time.

- No public transport in the evening.

The bus service in the area ceases at approximately 19:00. However services are available from the A49 until approximately 23:30 and the services that do pass the site include times when residents are likely to be commuting.

- No facilities for children to play.

A financial contribution is required as outlined previously in this report. This contribution will be put toward the provision and maintenance of play equipment within the township.

- Noise Report inadequate / Increase in pollution

Environmental Protection Officers have considered the noise report, which was adequate for them to assess the impacts.

- Backland development and previous refusal for a house on this site.

It is correct that an application was refused in 1978 for a detached bungalow on the site. The application was refused on the grounds that the access that was proposed to be taken from the rear access to the properties fronting Bradley Lane was not acceptable and that the proposal would constitute backland development that would prejudice the aim of properly planned development in the area. Much of the land around the site has been developed since this application was refused and this proposal has an acceptable access and makes better use of the site than a single bungalow. There is no longer any policy presumption against backland development and a refusal cannot be substantiated on these grounds.

Conclusion:

The proposal has an acceptable design and layout, has no impact on highway safety and will not be detrimental to the amenity of neighbouring properties.

The position taken by United Utilities is unusual but does not justify refusal of the planning application.

It is recommended that the application is minded to Approve Subject to the signing of a Section 106 Agreement.

Recommendation

Approved with Conditions

1. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the details shown on plan reference;
SF/3 received 19.06.2008
AD(10)01 received 19.06.2008
4.126/P/B/L received 19.06.2008
4.209/P/B/L received 19.06.2008
BL1 received 06.08.2008
AL001 revision B received 23.10.2009
SEC-01 received 06.08.2008
or any other plan agreed in writing as a working amendment by the Local Planning Authority.
2. Prior to the commencement of the construction of any building hereby approved provision shall be made on the site for:-
the parking of construction workers vehicles
storage of building materials, equipment and plant, and
placement of site cabins, site offices and storage containers
In accordance with details to be submitted to and approved in writing by the Local Planning Authority before the commencement of the development.
The development shall be carried out only in accordance with the approved details.
3. Before the development hereby approved is commenced, details of the method of surface water and foul water drainage from the site shall be submitted to and approved in writing by the Local Planning Authority and shall be installed in accordance with the approved details as an integral part of the development. The maximum rate of discharge shall be 1 in 1 year greenfield run off with storage provided for a 1 in 100 year design storm plus 20% unless other wise agreed in writing by the local planning authority.
No occupation or use of any building hereby approved shall commence until it has been connected to the approved drainage system.
4. Notwithstanding the details submitted with the application and before the development hereby approved is commenced the following information shall be submitted to and approved in writing by the Local Planning Authority:
 - (i) a full site survey showing:
the datum used to calibrate the site levels
levels along all site boundaries
levels across the site at regular intervals
floor levels of adjoining buildings
 - (ii) full details of the proposed finished floor levels of all buildings, hard surfaces and garden levels.The development shall be carried out only in accordance with the approved details.
5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking or re-enacting that Order with or without modification), no development within Class A, B, E, F of Schedule 2 Part 1 shall be carried out unless permission is granted by the Local Planning Authority.

6. Prior to the commencement of any development, details of the arrangements for the provision of 2no off-street car parking spaces for each property shall be submitted to and approved in writing by the Local Planning Authority. Any hard surface shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse. The duly approved scheme shall be implemented in full prior to first occupation of the approved extension, and shall be retained thereafter.
7. Before the development hereby approved is commenced, a scheme for protecting the proposed development from noise from Bradley Lane Industrial Estate shall be submitted to and approved in writing by the Local Planning Authority. Any works which form part of the scheme shall be completed to each property before it is occupied (unless otherwise agreed by the Local Planning Authority).
8. Before any part of the development hereby approved is commenced, particulars/samples of the materials to be used for the external walls and roof shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed only in accordance with the approved materials.
9. The site shall be treated in accordance with a landscape scheme to be submitted to and approved in writing by the Local Planning Authority before any part of the development is commenced and all works in accordance with the scheme shall be completed within a period of 6 months from the date on which development in accordance with the permission hereby granted is first commenced, or such longer period as may be agreed by the Local Planning Authority, having regard to planting seasons, such landscape scheme to include the planting of live trees and the treatment of forecourts, paving and boundary fences. All planting shall be maintained for a period of 5 years from the agreed date of planting.
10. Before the development hereby approved is commenced details of the proposed screen walls or fences shall be submitted to and approved in writing by the Local Planning Authority and shall be erected as an integral part of the development in accordance with the approved details and completed to each dwelling before that dwelling is first occupied.

Reasons:

1. For the avoidance of doubt, and having regard to Policy EV3A of the replacement Wigan UDP.
2. To ensure that construction workers vehicles are not parked on the highway and materials and associated facilities are not detrimental to the amenity of the area, having regard to Policy A1S of the replacement Wigan UDP.
3. To ensure that the site is satisfactorily drained, in accordance with Policy EV3A and G1C of the replacement Wigan UDP.
4. To ensure that the details of the development are satisfactory, having regard to Policy EV3A of the replacement Wigan UDP.
5. The excluded types of development would not be appropriate on these properties because of the restriction as a result of the water main that crosses the site and its 5 metre easement on each side, having regard to Policies EV3A and G1C of the replacement Wigan UDP.

6. To allow for vehicles to be parked clear of the highway and to reduce surface water run-off, in accordance with Policies A1S, R1D and G1C of the Replacement Wigan UDP.
7. The insulation of plant and machinery which generate high levels of noise will reduce the impact of the proposal on existing development in the vicinity, in accordance with Policies EV1B and G1A of the replacement Wigan UDP.
8. To ensure that the external appearance of the buildings is satisfactory, having regard to Policy EV3A of the replacement Wigan UDP.
9. To help to assimilate the proposed development into its surroundings, having regard to Policy EV3D of the replacement Wigan UDP.
10. To ensure that the details of the development are satisfactory, having regard to Policy EV3A of the replacement Wigan UDP.

Plans Attached to Report

Location Plan

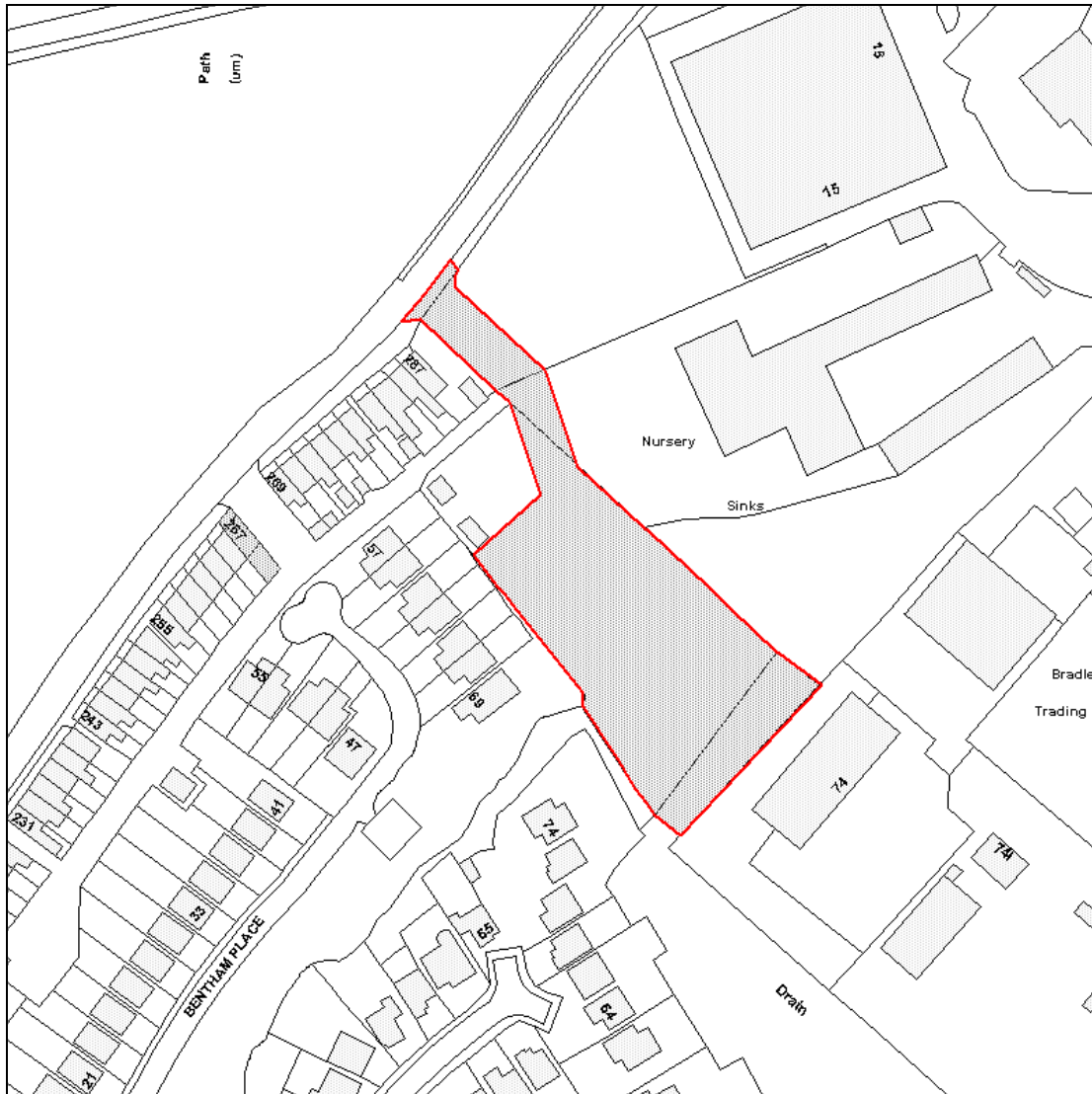
P/FOSTER/A/08/71514

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Location: Land To Rear Of 281-287 Bradley Lane And Rear Of 63-69 Bentham Place Standish

Ward: Standish With Langtree



Site Area 



This plan is representative only, to indicate the site in relation to its surroundings.

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