

REPORT TO: Development Control Committee

DATE: 8th December 2008

REPORTING OFFICER: Strategic Director - Environment

SUBJECT: Planning Applications to be determined by the Committee

The following applications for planning permission are submitted to the Committee for consideration with a recommendation in each case. Those applications marked * are considered to have significant employment implications.

An Amendments List, containing the categorisation of planning applications, additional information and amendments to recommendations, will be circulated to Committee Members before the meeting together with plans showing the location of each application site. Those applications now before the Committee, where the planning issues are considered clear by the Chairman, will be included in List A. Unless a Member considers that additional information is required on a particular application in List A it is **RECOMMENDED** that each of the applications be determined (whether for approval or for refusal) in accordance with the conditions or the reasons printed in the Agenda and in the Amendments List previously circulated.

The remaining applications are included in List B. Together with those applications about which Members require further information, List B applications will be considered following determination of applications remaining in List A.

PLAN NUMBER: 08/00459/FUL

APPLICANT: Liverpool Housing Trust and Riverside Housing Association

PROPOSAL: 74 No. new dwellings for rent and shared ownership comprising a mix of apartments, bungalows and 2, 3 and 4 bed houses

ADDRESS OF SITE: Land Opposite Play Building, Barnfield Avenue, Murdishaw

WARD: Norton South

SUMMARY RECOMMENDATION:

Approve subject to Conditions

CONSULTATION AND REPRESENTATION:

Adjoining properties have been consulted and the application advertised by way of site and press notice. The Council's Highways Engineer, Environmental Health, Trees and Woodlands and Nature Conservation Officers have been consulted, as have United Utilities, the Environment Agency, Health and Safety Executive (HSE) and Woodland Trust.

United Utilities have confirmed that they raise no objections in principle. The Council's Environmental Health Officers have confirmed that they raise no objections in principle subject to suitable ground investigation and mitigation by condition. Consultation under the Health and Safety Executive's (HSE) PADHI+ system confirms that they do not advise, on safety grounds, against the granting of planning permission in this case. 3 letters of representation have been received drawing attention to a previously inaccurate description and raising concerns about the traffic levels and impacts on the surrounding highway network, loss of trees and wildlife habitat, loss of amenity value of land, overlooking of existing properties and resultant loss of value.

Any further comments not covered within the body of this report will be reported orally to the Committee.

SITE/LOCATION:

An area of approximately 1.8 Hectares of informal open space, to the west side of Barnfield Avenue, Runcorn. The site is directly opposite Murdishaw Community Centre and Play Buildings and adjoins Murdishaw Army Cadet Hut and Railway Wood.

RELEVANT HISTORY:

None directly relevant.

UDP PLAN DESIGNATION, KEY POLICIES AND SUSTAINABILITY OBJECTIVES:

The site is identified as a Phase 2 Allocation for Housing Provision in the adopted Halton Unitary Development Plan for development following May 2007. The SPD for New Residential Development is also considered of relevance.

OBSERVATIONS AND ISSUES:

Policy Considerations

The site is identified as a Phase 2 Allocation for Housing Provision in the adopted Halton Unitary Development Plan for development following May 2007. As such, proposals for residential development on the site are considered acceptable in principle.

Design, Character and Amenity

The scheme proposes a mix of residential houses, bungalows and apartments constructed predominantly of a mix of traditional brick with contrasting brick feature detailing. Feature properties will also include zinc cladding to key elevations and mono-pitched zinc roofs. The majority of properties will have a mono-pitched roof design of modern construction with bungalows having a more traditional dual-pitch, tiled roof. The proposed properties are of a modern design but having reference to the scale and style of surrounding existing properties constructed as part of the expansion of the Runcorn New Town. The aim is for all to meet Code for Sustainable Homes Level 3.

The scheme is not wholly compliant in terms of minimum privacy distances and garden provision when tested against standards that relate to new green field development for open market housing. The scheme is substantially removed from existing surrounding dwellings and such shortfalls therefore relate to provision within the scheme itself. The scheme seeks to provide social and affordable housing throughout and it is considered that adequate provision can be made in terms private amenity space and privacy suited to such a scheme.

The scheme has substantially altered form that as originally submitted resulting in an overall reduction in the number of properties provided. Amendments have been required to overcome issues discussed within this report relating to provision of open space, protection of trees and providing adequate tree replacement, highway matters and securing a quality of scheme suited to the site. In addition, the scheme is a collaboration between Housing Associations and subject to stipulations of the national funding body, the Housing Corporation (now incorporated into the Homes and Communities Agency). Such issues have all had to be balanced in the consideration of the scheme.

Discussions are ongoing with the applicant in respect of a number of outstanding issues and, in particular, the character of the scheme. It is, however, considered that these can be adequately resolved to secure a scheme of appropriate quality and Members will be updated accordingly. It is however considered necessary to restrict permitted development rights for the resultant dwellings to avoid potential over-development of the plots and to safeguard residential amenity into the future.

Highways and Parking

Whilst the Council's Highways Engineer has confirmed that no significant highway objections are raised in principle, the application as submitted raises a number of issues relating to highways and parking, accessibility throughout the scheme and access for emergency vehicles. The scheme is substandard in terms of standard off-street parking provision. As the scheme is aimed at the social rented sector and to provide affordable housing it is considered that associated car ownership is likely to be relatively low and, as such, an exception can be made in this case. Provision for such variation has

previously been agreed for similar schemes within, for example, the Castlefields regeneration area. Discussions are ongoing with the applicant and the Council's Highways Engineers to provide satisfactory resolution of these outstanding issues and ensure that suitable pedestrian linkages are provided throughout the scheme and that adequate provision can be made for highway circulation, servicing and parking and Members will be updated accordingly. It is, however, considered necessary to restrict permitted development rights for frontage boundary treatments to allow control to be retained over highway safety matters.

Loss of Trees

The proposals will result in the loss of a substantial belt of semi mature trees/ woodland along the southern and eastern boundaries of the site. These trees were originally planted as part of the New Town development to provide a screen and buffer to the adjoining bus way. Whilst these trees obviously provide a prominent landscape feature and amenity value as a group, a tree survey submitted with the scheme identifies no individual specimens within this group of particular quality. The group has also been poorly maintained and requires extensive work including selective pruning, felling and replacement planting.

The Housing Associations are required by the terms of the Homes and Communities Agency funding requirements to provide a minimum number of dwellings on the site to secure funding and evidence provided to demonstrate that this can not be satisfactorily achieved without the loss of trees. Felling of smaller groups of trees within the woodland or those trees along the edges of the woodland would be unviable as this would leave unsightly trees with limited foliage at the new edges and result in future losses to wind as the stability for the trees is provided as a group developing as the woodland has matured.

The application has been amended to provide an albeit narrower belt of replacement tree planting along these boundaries which can be designed with appropriate species to be more suited to the new situation being located along the rear gardens of residential properties thereby reducing potential conflicts of overshadowing etc into the future. Whilst such loss is therefore regrettable it is considered on balance that the wider benefits of the scheme outweigh any harm resulting from the loss of the trees and that, with time, suitable replacement planting can be properly maintained and given chance to mature. Scope is also provided for tree planting within the scheme.

The site is also bounded by substantial mature woodland referred to as Railway Wood. This woodland is owned and managed by The Woodland Trust who have raised objections to the application in the form as originally submitted due to proximity and layout of the new dwellings and likely impacts on the long term health of trees at the woodland edge, and future management costs and impacts resulting from the improved public access to the woodland which results from the scheme. Amendments have been requested to re-address the relationship and proximity to trees to be retained.

Discussions are also ongoing between the developer and the Woodland Trust to secure contributions towards increasing access to the woodland. Members will be updated on the outcome of these negotiations.

The Council's Trees and Woodlands Officer has confirmed that, whilst the trees would be retained in the ideal, he raises no significant objection to this approach subject to appropriate replacement planting and adequate protection of trees to be retained which can be adequately secured by condition.

Ecology

The site is in close proximity to a number of ponds known to provide habitat to Great Crested Newts which is a protected species and, as such, the application is supported by an ecological survey. Whilst the site is within 500m of the ponds and could therefore be considered to provide habitat potential, it is considered that the availability of surrounding habitat and the barrier created by the intervening railway means that potential is limited. As such it is considered that no further survey work is required with regards to Great Crested Newts. The site includes a fire-damaged oak within areas of woodland to be retained. Surveys are currently underway to identify whether this is used as a bat roost and to identify any mitigation measures required to protect any such roost from the likely impacts of construction activity. It is also required under European legislation that the site is surveyed for ground nesting birds prior to works commencing and that any nests found protected accordingly.

The Council's Nature Conservation Officer has confirmed that he agrees with the approach taken and it is considered that any such mitigation as required can be secured through appropriate conditions. Members will be updated accordingly.

Flooding

The site is itself not considered to be at risk from flooding. The site area is however, in excess of 1 Ha and, in accordance with Planning policy Statement 25: Flooding, a Flood Risk Assessment (FRA) has been produced to ensure that the development itself does not add unduly to run-off rates and potential flooding in the wider area. On that basis the Environment Agency has confirmed that they are able to withdraw their original objection subject to conditions ensuring that the development is carried out in accordance with the approved FRA and requiring implementation of mitigation measures to limit and manage surface water run-off.

Open Space

For any market housing scheme of such a scale, provision and/or contribution would be required for open space in accordance with the Council's adopted SPD on Open Space. In particular, provision for amenity space, children and young people and allotments are considered deficient in the area. This is

however a Housing Association scheme to provide social housing to rent and affordable housing through a shared ownership scheme. It is therefore considered that to require such contribution based on market housing requirements would be unviable in this case.

An area of informal open space is to be introduced through amendments to the scheme. The applicants also fund the adjoining community centre and play centre, which includes provision for children's play areas and they have agreed to open up access to these facilities. Discussions are also ongoing with the Woodland Trust to secure methods of improving access to the adjoining woodland as a community facility and members will be updated orally on this matter.

Contamination

The Council's Environmental Health Officers have confirmed that, due to the sensitivity of the proposed use, detailed ground investigation should be provided. No objection is raised in principle however and it is considered that this can be adequately secured by condition.

Summary and Conclusion

The submitted proposals raise a number of issues and discussions are ongoing. The scheme is a collaboration between Housing Associations and subject to stipulations of the national funding body, the Housing Corporation (now incorporated into the Homes and Communities Agency). And the unique issues raised by such an approach have all had to be balanced in the consideration of the scheme. It is considered that the outstanding matters can be resolved and that the scheme offers the potential for a good quality of development suited to the character of the site and the wider area and that the requirements and aspirations of UDP policy and SPD can be met.

RECOMMENDATION:

Approve subject to a legal agreement and conditions relating to the following:

- a) the applicant entering into a legal or other appropriate agreement relating to provision of off site open space as required.
- b) Conditions relating to the following:
 - 1. Requiring the development to be carried out in accordance with the approved phasing plan and requiring conditions for each phase to be discharged in accordance with the specified timescale for each phase (BE1)
 - 2. Condition specifying amended plans (BE1)
 - 3. Materials condition, requiring the submission and approval of the materials to be used (BE2)
 - 4. Landscaping condition, requiring the submission of both hard and soft landscaping to include replacement tree planting. (BE2)

5. Boundary treatments including retaining walls to be submitted and approved in writing. (BE2)
 6. Wheel cleansing facilities to be submitted and approved in writing. (BE1)
 7. Construction and delivery hours to be adhered to throughout the course of the development. (BE1)
 8. Vehicle access, parking, servicing etc to be constructed prior to occupation of properties/ commencement of use. (BE1)
 9. Conditions relating to the agreement and implementation of bin stores cycle parking provision (TP6)
 10. Submission and agreement of finished floor and site levels. (BE1)
 11. Conditions relating to restriction of permitted development rights relating to extensions and outbuildings and boundary fences etc. (BE1)
 12. Site investigation, including mitigation to be submitted and approved in writing. (PR14)
 13. Conditions relating to tree protection during construction (BE1)
 14. Requiring Development be carried out in accordance with the approved FRA and mitigation measures (PR16)
- c) That if the S106 Agreement or alternative arrangement is not executed within a reasonable period of time, authority be delegated to the Operational Director – Environmental and Regulatory Services in consultation with the Chairman or Vice Chairman of the Committee to refuse the application on the grounds that it fails to comply with Policy S25 (Planning Obligations).

PLAN NUMBER: 08/00534/COU

APPLICANT: Mrs P Wallace

PROPOSAL: Proposed change of use of vacant land to residential garden and erection of boundary fence

ADDRESS OF SITE: Land adjacent to 11 James Close, Widnes

WARD: Riverside

SUMMARY RECOMMENDATION:

Approve with conditions.

CONSULTATION AND REPRESENTATION:

The proposal was advertised by way of site notice and neighbours consulted. The Council's Highways Engineer and Environmental Health Officer have also been consulted. Natural England has also been notified.

Natural England and the Council's Highways Engineer have no objections to the proposal. The Council's Environmental Health Officer has no objection but requires a ground investigation and remediation plan.

A petition with eight signatures has been received from local residents in objection to the proposed development. The grounds of objection relate to an unsightly appearance, which would be out of character with the rest of the Close and that the proposal would compromise the future use of the land for extra parking for which there is currently minimal.

Three other representations from local residents have been received with concerns about the proposal. These concerns relate to existing parking problems in the area, the loss of land which could have been utilised for parking, the potential highway hazard for pedestrians created as a result of the erection of a fence, an eye sore within the Close, and the sale of the land to the applicant.

Any further representations received will be reported orally to the Committee.

SITE/LOCATION:

The site comprises a small area of open land which is situated adjacent to 11 James Close and is approximately 60 square metres in area. The site falls within the established residential area and forms part of incidental open space located at various intervals within the Close. To the west of the site is an existing alleyway located to the rear of properties on Mersey Road, which was fenced off some time ago. The site adjoins an existing parking area to the north.

RELEVANT HISTORY:

There is no planning history of relevance to the proposed change of use.

DEVELOPMENT PLAN DESIGNATION, KEY POLICIES AND SUSTAINABILITY OBJECTIVES:

The site falls within a 'Primarily Residential Area' and within the 'Developed Coastal Zone' of the Halton UDP and the key policies, which relate to the development, are:

BE1 'General Requirements for Development', BE2 'Quality of Design', PR14 'Contaminated Land', TP12 'Car Parking', GE30 'The Mersey Coastal Zone', BE22 'Boundary Walls and Fences'.

OBSERVATIONS AND ISSUES:

The application proposes the change of use from vacant land to a residential garden and the erection of a boundary fence. The work will require the removal of an existing brick wall which currently bounds the residential garden at 11 James Close. The proposed fence around the new perimeter will be 2

metres in height and constructed from timber and concrete fence panels and concrete posts. The main issues arising are detailed below:

Street Scene and Appearance

Concerns have been raised from neighbouring properties with regard to the appearance of the proposal as an eyesore within the Close. The proposed boundary fence will project 2.6 metres from the side of the property when viewed from the front elevation of 11 James Close. The remainder of the fence will be to the north of the property and therefore hidden from immediate view when entering James Close. It is therefore considered that the proposal will have minimal impact on the street scene and visual amenity of James Close itself. In addition, a condition has been applied that the fence be painted dark brown to reduce any impact. Therefore the proposal is considered to comply with Policies BE1, BE2 and BE22.

Highways

Local residents have raised concerns, that the proposal will prejudice the future development of the open areas within James Close for parking. However, given that the land in question is relatively small, it is not considered that this would prevent the remainder of the land from being utilised for parking.

Concerns have been received from the occupier of a neighbouring property with regard to a potential highway hazard as a result of the fence. However, the Council's Highways Engineer has raised no concerns with the proposal, and it is therefore considered that no highways hazards will be created. The proposal therefore complies with Policy BE1 of the UDP.

Conclusion

The proposed development will bring an area of vacant land into active private use. It is considered that there would be minimal impact on visual amenity and the street scene along James Close given its modest size and positioning so that it is partially hidden. Concerns relating to the sale of the land are not addressed in this report, as they are not considered to be a planning matter. It is considered that the proposed garden would provide extra security within the parking areas for not only the applicant but for others who park within James Close.

As such, the application complies with Policies BE1, BE2, PR14, TP12, GE30 and BE22 of the Halton UDP and is therefore recommended for approval.

RECOMMENDATION:

Approve subject to the following conditions:

1. Standard condition relating to timescale and duration of the permission;

2. Within three months of its installation, the timber fence panels shall be painted dark brown to match the existing building and maintained to the satisfaction of the Local Planning Authority (BE2).
3. Prior to commencement of development, site investigation, including mitigation to be submitted and approved in writing. (PR14).

PLAN NUMBER: 08/00537/COU

APPLICANT: Mr A Malik

PROPOSAL: Proposed change of use from retail to hot food takeaway

ADDRESS OF SITE: 106 Widnes Road, Widnes

WARD: Appleton

SUMMARY RECOMMENDATION:

Approve subject to conditions

CONSULTATION AND REPRESENTATION:

The proposal was advertised by way of site notice and neighbours consulted. The Council's Highways Engineer and Environmental Health Officer have also been consulted.

The Council's Highways Engineer has no concerns with the application. The Council's Environmental Health Officer has objected on the basis that the unit is not large enough for use as a hot food take away, that no area for food storage has been shown, and that the limited space does not permit adequate separation of raw and cooked food in order to prevent cross contamination. With regard to noise and odour, there have been no objections raised by the Environmental Health Officer, however, details relating to the extraction and filter system and noise levels would be required prior to commencement of development, should approval be granted.

Comments have been received from the Police Crime Prevention Officer with regard to the proposed opening hours, as a Late Night Refreshment Licence would be required if the outlet were to be open past 11pm.

One objection has been received from a neighbouring property regarding the close proximity of the proposed outlet to residential homes and potential late night noise and problems with litter. Concerns have also been raised from the adjoining occupiers with regard to potential odour and waste problems.

Any further representations will be reported orally to the Committee.

SITE/LOCATION:

The site comprises a mid terrace two storey property with an associated enclosed yard area to the rear. The property is currently vacant but was previously in use as a mobile phone repair shop at ground floor. The yard area to the rear is accessed via Grenfell Street. To the front of the property the frontages are staggered with the adjoining property (Holland and Co. Accountants) set forward from the application site. The site falls within an established commercial area with a mix of surrounding uses.

RELEVANT HISTORY:

There is no planning history of relevance to the proposed change of use.

DEVELOPMENT PLAN DESIGNATION, KEY POLICIES AND SUSTAINABILITY OBJECTIVES:

The site falls within the designated 'Secondary Shopping Area' of Widnes Town Centre, within the Simms Cross 'Retail and Leisure Allocation', and also within an 'Environmental Priority Area' within the Halton Unitary Development Plan (UDP). The key policies, which relate to the development, are: -

S16 'Retail Hierarchy', BE1 'General Requirements for Development', BE2 'Quality of Design', BE3 'Environmental Priority Areas', BE19 'Disabled Access for Changes of Use, Alterations and Extensions', TC1 'Retail and Leisure Allocations', TC8 'Non-Retail Uses within Primary and Secondary Shopping Areas', TC11 'Food and Drink Outlets', PR2 'Noise Nuisance', PR3 'Odour Nuisance' and TP12 'Car Parking'.

OBSERVATIONS AND ISSUES:

The application proposes the change of use of the ground floor of the building from a shop to a hot food takeaway. No external alterations to the building are proposed apart from the installation of an extraction flue to the rear elevation which is shown to be 300mm wide and a ramp at the front entrance for the less mobile, of which limited details have been provided.

Planning Policy

The shopping policies of the UDP are designed to protect the vitality and viability of the Borough's Town and Neighbourhood Centres. In particular, Policies S16 and TC8 are designed to ensure that people have access to a good range of shops that meet their daily needs for food, clothing, medicine and household goods. The relevant policies therefore only allow a minority proportion of non-retail outlets e.g. restaurants, takeaways, banks and estate agents within the 'Primary Shopping Areas' of Town Centres and in certain Neighbourhood Centres.

However, on the fringes of the Town Centres, certain shopping streets are designated 'Secondary Shopping Areas' where policy differs and a wider variety of Town Centre uses including non-retail outlets such as hot food

takeaways are normally permissible. Policy TC8 of the UDP states that there will be no restriction on non-retail uses within the 'Secondary Shopping Areas'.

In addition, the site falls within the 'Simms Cross Retail and Leisure Allocation' in which Policy TC1 allows for hot food takeaways (Class A5) in this area.

On a separate matter, consideration has been given to the provision of a hot food takeaway and the assumption that the outlet may provide food, which is likely to be unhealthy in terms of high fat and salt content. Although it is acknowledged in the UDP that there is a poor health position within the Borough, and the improvement of the health of the Borough is a key aim of the Council's Corporate Plan, there are currently no planning policies to support this issue. In the absence of planning policy, it is therefore considered that in this instance, refusal on health grounds would neither be appropriate nor a matter which could be defended on appeal.

Environmental Health

The application indicates that a flue will be erected and an extraction system installed for the purpose of food preparation. As the proposed flue is shown to be positioned on the rear elevation of the building and given that the building line to the rear is staggered, the flue will be out of immediate sight.

An objection has been received from the adjoining property (No. 108 Widnes Road) with regard to potential odours and discarded food. Comments from the Environmental Health Officer have been received and details have been requested with regard to the proposed extract system and filters prior to commencement of development. In addition it has been requested that the proposed flue is at least 1.5 metres above the eaves or the nearest openable window. These matters have been conditioned accordingly, which will address any neighbour concerns relating to potential odour. Furthermore, a condition has been applied to ensure that details relating to a receptacle for discarded food wrapping is submitted and approved.

The applicant has specified that the opening hours will be 17.00 until 23.55 every day.

To the rear of the building, there is an existing yard area, which is enclosed by boundary fencing. The yard area is considered to be of a sufficient size for the storage of trade bins and the gates onto Grenfell Street are of a sufficient width for refuse collections.

One objection has been received from a neighbouring property with regard to the potential harm to occupiers of nearby residential properties. However, the nearest residential properties are along Frederick Street, Gladstone Street and two flats to the rear above No. 31 Gerrard Street. These are not considered to be within immediate proximity to the site, and therefore the impact on residential amenity is considered to be minimal. Any matters relating to noise emitted from the extract system and litter will be addressed by way of planning condition.

On a separate matter, an objection has been received from the Environmental Health Officer relating poor food hygiene that would occur and that the premises are unsuitable for a hot food takeaway. However, these issues are not planning matters and are not considered to be strong grounds for refusal. Any matters relating to food hygiene can be dealt with under separate legislation. However, this matter can be dealt with by way of conditions and a requirement will be placed upon the applicant to demonstrate the suitability of the premises.

Conclusion

The proposed hot food take away is considered to create minimal impact upon residential amenity, given that there are no residential properties within immediate proximity to the site. Any concerns relating to odour, noise from the extract system and litter will be controlled by way of condition. The proposed use is considered to be in keeping with the surrounding mix of commercial uses and although the poor health of the Borough is a concern, this is not considered to be a material reason for refusal in this instance. Highways have expressed no concerns with the proposal and concerns relating to food hygiene and regeneration are not considered to be planning matters. As such, it is considered that the application complies with Policies S16, BE1, BE2, BE3, BE19, TC1, TC8, TC11, H8, PR2, PR3 and TP12 of the Halton UDP. It is also acknowledged that this decision, when measured against other Council ambitions is balanced and therefore, only if it can be assured that a quality premises can be achieved is the proposal acceptable.

RECOMMENDATION

Approve subject to conditions relating to the following:

1. Standard condition relating to timescale and duration of the permission.
 2. Prior to commencement, details of the provision of filtration, including odour filters to suppress odour produced by cooking and food preparation shall be submitted and approved. (BE1 and PR3)
 3. Prior to commencement, details of the location and noise levels emitted by the fan and motor of the extract system prior to its installation shall be submitted and approved. (BE1 and PR2)
 4. The extract system should extend at least 1.5m above the eaves of the building and/or the nearest openable window. (TC11 and PR3)
 5. The extract shall not be impeded by use of a 'Chinaman's hat' or cowl. (TC11 and PR3)
 6. Details of the provision of a receptacle for use by customers of the premises for the deposit of discarded food wrapping to be submitted to and approved in writing and maintained thereafter. (TC11)
 7. Details of internal floor layouts and plans required.
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