

**Item**                    **10/00522/FUL**

**Case Officer**        **Mr David Stirzaker**

**Ward**                    **Clayton-le-Woods West And Cuerden**

**Proposal**              **Erection of 3 dwellings**

**Location**             **89 Lancaster Lane Clayton-le-Woods Leyland PR25 5SP**

**Applicant**            **Wainhomes (NW) Ltd**

**Consultation expiry: 5 August 2010**

**Application expiry: 20 August 2010**

### **Proposal**

1. This application seeks planning permission for the erection of three detached dwellings and has been submitted by Wainhomes.
2. The application site comprises of a large proportion of the rear garden of 89 Lancaster Lane, Clayton Le Woods. The site is relatively flat and is accessed from Lancaster Lane. The existing property on the site is being retained and comprises of a large traditional bungalow. Access to the site is via the existing driveway to the site which runs past the eastern elevation of the existing property.

### **Recommendation**

3. It is recommended that planning permission be refused.

### **Main Issues**

4. The main issues for consideration in respect of this planning application are:
  - Principle of the development in light of changes to Planning Policy Statement 3 (PPS3) and the Council's Interim Policy on Private Residential Garden Development;
  - Design, Appearance & Site Layout;
  - The amenities of neighbours;
  - Highway safety and parking provision;
  - Impact on trees
  - Other matters

### **Representations**

5. A total of 12 representations have been received from local residents. The contents of the objection letters can be summarised as follows:
  - Highway safety concerns with the additional traffic using the access as access to the site would be extremely hazardous
  - Lancaster Lane is now overburdened with traffic which has increased over the last 18 months
  - The application represents garden grabbing
  - Loss of residential amenity through overlooking of the gardens and bedroom windows of 81, 83, 85, 87 Lancaster Lane
  - The style of housing does not fit in with that of the locality
  - The Scott property would create additional noise, unsightly view and potential impact on privacy
  - The application represents overdevelopment of a semi-rural area and removal of minimum density means gives the Council more opportunity to better protect the local environment
  - The Brancaster house type would cause overlooking
  - The Jenner house type is out of keeping with the locality
  - Noise will be generated during construction
  - The effect on the infrastructure of the local area
  - Access for emergency vehicles is limited

- The price of the properties would be out of reach of local people
- Vehicles accessing and leaving the site would create unacceptable noise
- The Coalition Government have recently passed legislation to stop 'Garden Grabbing'
- Granting planning permission would set a precedent
- The large gardens in the area create a special character
- Additional parking on Lancaster Lane and construction traffic will cause highway safety problems
- The Wainhomes developments continue to erode the amenity value and appearance of the locality
- The access is not wide enough to accommodate 2 vehicles passing each other
- There are other large developments in the area so there is not a shortage of properties in the area

## **Consultations**

6. Clayton Le Woods Parish Council have not made any comments on the application.
7. The Director of People and Places recommends the imposition of a condition requiring the applicant to carry out a ground condition survey and undertake remediation measures if deemed necessary.
8. LCC (Highways) have objected to the application. The objection states that even if the road is to be kept private, there are issues with the length of the access in that due to its 60m length, high speeds could be achieved and there is no room to adjust the design whilst there is not space for vehicles to pass each other. Provisions for pedestrians have not been included in the development in accordance with Manual for Streets. Also, a refuse vehicle cannot enter the site and the carry distances for residents is too great. The access is right on the roundabout approach/departure and this would be unacceptable with vehicles waiting to turn right and they could potentially be waiting for a vehicle to leave the site. Also, vehicles coming off the roundabout will be accelerating and not expect to find a vehicle waiting in front of them.
9. The Arboricultural Officer raises no objections to the application as measures can be taken to ensure the driveway is constructed in a way that does not harm the roots of the trees.
10. The Environment Agency recommend a condition requiring surface water regulation details to be submitted to the Council for approval and thereafter implemented in accordance with the approved details.

## **Assessment**

### Principle of the development

11. As Members will already be aware, the new Coalition Government has recently made changes to Planning Policy Statement 3 (PPS3) following a commitment set out in section 4 (Communities and Local Government) of the Coalition Agreement. Private residential gardens are now excluded from the definition of previously developed land in Annex B of PPS3 whilst the national indicative minimum density of 30 dwellings per hectare has been deleted from paragraph 47 of the same document. In its letter to Chief Planning Officers of the 15<sup>th</sup> June 2010, the Government states that the objectives of the changes to PPS3 are to give Local Authorities the opportunity to prevent overdevelopment of neighborhoods and prevent garden grabbing.
12. This change to National Planning Policy has been widely publicised in the media. The changes to PPS3 remove the presumption in favour of developing garden curtilages (which were formerly classified as previously developed land) that previously existed but the development of garden curtilages is not ruled out altogether although section 4 of the Coalition Agreement does make it clear that the new Governments objective is to give Local Authorities new powers to stop 'garden grabbing' and prevent the types of small residential developments that have recently been permitted across the Borough, particularly in the Clayton-Le-Woods and Whittle-Le-Woods areas. Garden land is now classified as 'Greenfield' land.
13. In response to the changes to PPS3, the Council has now prepared an Interim Policy on 'Private Residential Garden Development' and following a period of public consultation, this has been approved by the Council's Cabinet and will be reported to the full Council wherein it will be recommended for adoption. The Policy seeks to resist residential development on private garden land. The Policy reads as follows: -

Within the boundaries of settlements, applications for development within private residential gardens on sites not allocated in saved Local Plan Policy HS1 will only be permitted for:

- (a) agricultural workers dwellings/dependents where there is a proven need and where they need to be located in a specific location.
  - (b) appropriately designed and located replacement dwellings where there is no more than one for one replacement.
  - (c) The conversion and extension of buildings, provided they are not allocated for, currently used for, or their last use was for, employment uses, and the conversion would have significant urban regeneration benefits.
14. The Policy recognises the fact that at the local level, communities do not support such development and actively object when planning applications for schemes such as this one are submitted to the Council as local distinctiveness is being undermined. The Policy does include a caveat that garden development may be considered in exceptional circumstances, subject to other material planning considerations, providing the developer can demonstrate that the proposed development is in keeping with the character of the local area. The Policy is not part of the development plan but is a material consideration in the determination of this application.
15. With regards to Policy HS6 in the current Local Plan, this states that in the case of previously undeveloped sites applicants are required to demonstrate that there are no suitable allocated or previously developed sites available in the settlement (criteria f). It is not considered that the applicant has submitted sufficient evidence to suitably meet the requirements of Policy HS6 (f).
16. With regards to the implications of the reclassification of garden land in PPS3 on the Council's housing figures, in recent years the Council has comfortably exceeded the brownfield/previously developed land target of 70% set out in the Regional Spatial Strategy, although this document has now been withdrawn, and significantly exceeded the national annual target in PPS3 of at least 60% of dwellings to be built on previously developed land. During 2009/10 78.8% of units completed were on previously developed land. The figures for 2008/09 and 2007/08 were 78.6% and 91.4% respectively. These figures were all calculated before the change to the definition of garden land in PPS3, but show that Chorley has been successfully meeting targets for re-using previously developed land in recent years. As targets for housing on previously developed land are being exceeded, the Council is not under pressure to release sites such as this and similar ones for housing development.
17. Paragraph 67 of PPS3 states that where there is significant underperformance against previously developed land trajectories, Local Planning Authorities may consider invoking development control policies in relation to development on particular categories of land, for example, rejecting applications on Greenfield/garden land sites until evidence demonstrates that the underperformance issue has been addressed and actual performance is within acceptable ranges. As the figures in paragraph 18 demonstrate, Chorley is already exceeding previously developed land targets and there is considered to be a deliverable 5 year supply of housing. On this basis, the development of this site would not prejudice these targets hence a reason for refusal on this particular basis could not be substantiated and thereafter defended at Appeal.
18. In summary, PPS3 no longer classifies this type of site (garden curtilage) as previously developed land wherein a presumption in favour of development exists and as the Council is meeting targets in terms of housing on previously developed land, the Council is not under pressure to release sites such as this one and those similar for housing development. Also, the applicant has not provided evidence to meet the requirements of criteria (f) of Policy HS6. Criteria (g) of Policy HS6 also states that there should not be any conflict with other Policies in the Local Plan. The application is considered to be contrary to the newly adopted Interim Policy on 'Private Residential Garden Development' and there are no exceptional circumstances in this case that would weigh in favour of approving the application.

#### Design, Appearance & Layout

19. The site is presently part of the garden of 89 Lancaster Lane. PPS3 sets out the national criteria to be taken into account in assessing design quality for residential development. PPS3 states that matters to consider when assessing design quality include the extent to which the proposed development:
- *is easily accessible to community facilities and services with public transport available*

*and the scheme is well laid out so that all the space is used efficiently, is safe, accessible and user friendly*

- *provides or enables good access to community and green and open amenity and recreational space (including playspace) as well as private outdoor space such as residential gardens, patios and balconies*
- *is well integrated with and complements the neighbouring buildings and local area more generally in terms of scale, density, layout and access*
- *facilitates the efficient use of resources during construction and in use and seeks to adapt to and reduce the impact of climate change*
- *takes a design led approach to the provision of car parking space that is well integrated with a high quality public realm and streets that are pedestrian, cycle and vehicle friendly*
- *creates, or enhances, a distinctive character that relates well to the surroundings and supports a sense of local pride and civic identity.*

20. The dwellings proposed are from the Wainhomes stock of standard house types hence are not of a design that is a result of an assessment of the local character. The existing property on the site is a traditional bungalow and there are many other similar style properties in the vicinity of the application site although the properties on the same side of Lancaster Lane are 2 storey dwellings. There are also modern 2 storey properties to the north and east of the site. However, the 'Jenner' house type is a 2½ storey property and in the vicinity of the application site, there are no other such properties. The scale of this property is therefore considered to be out of character with that of the locality although it would be more difficult to argue against the 2 storey dwellings being proposed on the site as there are other such properties in the vicinity of the application site, save for the bungalow on the site at present which is being retained.

21. The layout of the site is cramped due to its limited dimensions whilst the density of the development is higher than the other properties fronting onto Lancaster Lane which all have substantial rear gardens which remain undeveloped. The site is bounded by a higher density modern development to the north and east but there is a clear differentiation between this and the application site by virtue of the established boundary. The enclosed nature of the application site by virtue of the established trees to the boundaries means the development would not read as being part of the modern estate to the north and east, rather it would be perceived as being part of the Lancaster Lane development on the north side of the road given it is accessed from Lancaster Lane and the development would be out of character with this part of Lancaster Lane due to its cramped nature and the inclusion of a 2 ½ storey dwelling.

#### The amenities of neighbours

22. The relationship between the properties on plots 2 and 3 and the properties to the north on Petunia Close is considered to be an acceptable one as there is a long established evergreen hedge to the northern boundary and the Council's Spacing Standards are satisfactorily met.

23. The property on plot 1 would not however be sited a sufficient distance from the boundary with 87 Lancaster Lane. The property on plot would not meet the Council's Spacing Standards which require first floor windows to habitable rooms to be sited 10m from the boundary they face. The occupier/s of 87 Lancaster Lane would therefore experience a detrimental loss of residential amenity through overlooking and this part of the application is considered to be unacceptable.

#### Highway safety & parking provision

24. Access to the site is via the existing driveway which serves 89 Lancaster Lane. Each of the dwellings has adequate parking space. LCC (Highways) have objected to the application stating that even if the road is to be kept private, there are issues with the length of the access in that due to its 60m length, high speeds could be achieved and there is no room to adjust the design whilst there is not space for vehicles to pass each other. Provisions for pedestrians have not been included in the development in accordance with Manual for Streets. Also, a refuse vehicle cannot enter the site and the carry distances for residents is too great. The access is right on the roundabout approach/departure and this would be unacceptable with vehicles waiting to turn right and they could potentially be waiting for a vehicle to leave the site. Also, vehicles coming off the roundabout will be accelerating and not expect to find a vehicle waiting in front of them.

#### Trees

25. With regards to trees, a survey has been provided. No works are proposed other than the felling of a Leylandii tree on the site and the Arboricultural Officer raises no objections.

### Section 106 Agreement

26. If the application had proved acceptable a s106 Agreement would have been required in relation to the provision of £3981 for the provision of equipped play areas, casual/informal play space and playing fields.

### **Overall Conclusion**

27. As submitted the layout is unsatisfactory in that the dwelling on plot 1 does not comply with the Council's adopted interface distances as the first floor windows in the rear elevation would be less than 10m from the boundary they would face. Also, the application site comprises of part of the garden of 89 Lancaster Lane. The Council's Interim Policy on Private Residential Garden Development seeks to resist this type of development. The caveat in the Policy precludes such development unless there are exceptional circumstances. In this case, there are not considered to be any exceptional circumstances that weigh in favour of permitting the proposed development on this site. Also, LCC (Highways) have objected to the application on highway safety grounds and it is not considered that the development is in keeping with the local character of Lancaster Lane. The development is considered to be contrary to criteria (c), (d), (e), (f) and (g) of Policy HS6, criteria (b), (c) and (d) of Policy HS4 and Policy GN5.

### **Planning Policies**

28. National Planning Policies:  
PPS1, PPS3

29. Adopted Chorley Borough Local Plan Review  
Policies: GN1 / GN5 / HS3 / HS4 / HS6 / HS21 / TR4

30. Supplementary Planning Guidance  
Design SPG

31. Interim Policy  
Private Residential Garden Development  
Interim Playspace Guidelines

### **Planning History**

32. There is no recent planning history on this site.

### **Recommendation: Refuse Full Planning Permission**

#### **Reasons**

1. The proposed dwelling is on land which is presently garden land not allocated for housing in the Chorley Borough Local Plan Review. In response to recent changes to Planning Policy Statement 3 (PPS3), the Council has prepared an Interim Policy on Private Residential Garden Development which seeks to resist residential development taking place on private garden land unless certain criteria are met or there are exceptional circumstances. In this case, the proposed dwelling does not meet one of the three criteria listed in the Policy nor are there considered to be exceptional circumstances that weigh in favour of approving the development.
2. The proposed development is within the settlement boundary of Clayton-Le-Woods on an unallocated and un-developed 'Greenfield' site. It has not been demonstrated that there are no suitable allocated or previously developed sites available within the settlement and as such the proposal is contrary to criteria (f) of Policy HS6 of the Chorley Borough Local Plan Review and PPS3: Housing.
3. The first floor windows in the rear elevation of the proposed dwelling would be sited less than 10m from the boundary they face and as a result of this, the proposed dwelling would allow detrimental overlooking and therefore have a detrimental impact on the amenities which the occupiers and future occupiers of the adjacent property can reasonably expect to enjoy contrary to Policy HS4 (c) and Policy HS6 (c) and (d) of the Chorley Borough Local Plan Review.