

**Item**                               **10/00739/FUL**

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

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

**Proposal**                       **Erection of two storey detached dwelling**

**Location**                       **26 Lancaster Lane Clayton-Le-Woods Leyland PR25 5SN**

**Applicant**                       **Wainhomes Development Ltd**

**Consultation expiry: 18 October 2010**

**Application expiry: 13 October 2010**

### **Proposal**

1. This application seeks planning permission for the erection of a single two storey dwelling and has been submitted by Wainhomes.
2. The application site comprises part of the garden of 26 Lancaster Lane and is directly adjacent to the Wainhomes development which is currently in the early stages of construction on the site of 24 and 26A Lancaster Lane, Clayton Le Woods.
3. The directly adjacent site was permitted by the Council in 2008 (Ref No. 08/00787/FUL) on the site of 24 Lancaster Lane and a further 5 dwellings where permitted as an extension to this site in the garden of 26A Lancaster Lane in 2009 (Ref No. 09/00108/FUL).

### **Recommendation**

4. It is recommended that planning permission be refused.

### **Main Issues**

5. 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 Councils 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**

6. A total of 12 representations have been received from local residents. The contents of the objection letters can be summarised as follows:
  - The Council has powers to make the area a Conservation Area
  - The development would impact on wildlife in the area
  - Consideration should be given to the Council's Interim Policy on Garden Grabbing
  - Proposal is contrary to Policy HS4
  - Wainhomes have agreed to fund the construction of the extensions to 26 Lancaster Lane in return for the land
  - The dwelling will lead to a loss of privacy through overlooking
  - Wainhomes should not be allowed to build wherever they like
  - Applications such as this one do nothing to improve the area apart from increasing the traffic on Lancaster Lane
  - Wainhomes developments do not blend in with existing properties on Lancaster Lane
  - The application does not include information to justify the development in accordance

with Policy HS6 requirements, in particular criteria (f)

- The first floor bedroom window overlooks the garden of 28A Lancaster Lane
- The development does not accord with the Councils Interim Policy on Private Residential Garden Development

## **Consultations**

7. Clayton Le Woods Parish Council have no comments to make on the application.
8. In light of the previous Ground Investigation Report submitted for the adjacent site, The Director of People and Places recommends a condition requiring the applicant to cease work on site if any contaminated material is discovered until suitable remediation measures have been agreed with the Council.
9. LCC (Highways) have not made any comments on the application.
10. LCC (Ecology) have reviewed the applicants Bat Survey and advise that the development would be unlikely to impact on these protected species although the applicant should be made aware that protected species legislation still applies, even if planning consent has been granted and that any works to mature trees that may become necessary in the future should be carried out by an appropriately experienced and qualified Arboriculturalist (i.e. one who is aware of their legal responsibility with respect to bats).
11. The Arboricultural Officer raises no objections in light of the amended site layout plan.

## **Assessment**

### Principle of the development

12. 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.
13. 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.
14. 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 hence the Policy is a material consideration. 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.

15. 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.
16. 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).
17. With regards to the implications of the reclassification of garden curtilages 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.
18. 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 curtilage 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.
19. 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. 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

20. The site is presently part of the garden of 26 Lancaster Lane and is directly adjacent to the Wainhomes residential development site which is presently in the early stages of construction. Access to the site would be from this development.
21. 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.*

22. The dwelling proposed is from the Wainhomes stock of standard house types hence it is not of a design that is a result of an assessment of the local character and thereafter designed in response to it. However, in this case, it would be difficult to justify a design reason for refusal as the dwelling would be positioned directly adjacent to the approved Wainhomes development on the site of 24 and 26A Lancaster Lane so it would be seen with and as part of this new development.

23. The layout of the site is also reflective of the adjacent approved Wainhomes development in terms of plot size and has been amended to protect the trees on the site which are the subject of a Tree Preservation Order.

24. Overall the design and scale of the dwelling is considered to be acceptable as is the layout of the site hence there are no objections on these grounds.

#### The amenities of neighbours

25. The first floor windows in the rear elevation of the dwelling would be approx. 15m from the boundary they face. This distance is in excess of the Council's Spacing Standard requirement of 10m so the relationship with the residential properties on Kellet Avenue would be an acceptable one.

26. There are no habitable room windows in the side elevation of the property facing the garden of 28A Lancaster Lane and the en-suite window could be condition to be fitted with obscure glass and be non-opening if the application was found to be acceptable.

27. The first floor windows in the front elevation would be less than 10m from the boundary they would face. Whilst they would face the garden of 26 Lancaster Lane, the property on whose land the dwelling is proposed, this does not override the requirement for reasonable levels of privacy to be provided. Whilst the present occupiers of 26 Lancaster Lane may not object to this relationship, the amenities of future occupiers of this property need to be safeguarded so the relationship as proposed is not considered to be acceptable.

#### Highway safety & parking provision.

28. Access to the dwelling is from the development under construction and the curtilage of the dwelling includes space for a car to turn so it can enter and leave the site in a forward gear. There is also adequate parking in the curtilage to serve the property so there are no concerns with the application from a highway safety and parking provision perspective.

#### Trees & Ecology

29. With regards to the comments by LCC (Ecology), if the application was recommended for approval, an informative would be sufficient to alert the applicant to the potential presence of bats on the site. The site layout has been amended to take account of the protected trees on the site and suitable Root Protection Zones are now provided.

#### Section 106 Agreement

30. If the application had proved acceptable a s106 Agreement would have been required in relation to the provision of £1327 for the provision of equipped play areas, casual/informal play space and playing fields.

#### **Overall Conclusion**

31. As submitted the layout is unsatisfactory in that it does not comply with the Council's adopted interface distances as the first floor windows in the front elevation would be less than 10m from the boundary they would face. Also, the application site comprises of part of the garden of 26

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. This is a finely balanced case as the site is directly adjoining the Wainhomes development currently under construction. However, the Interim Policy is a material consideration and on balance, the addition of another dwelling is contrary to the Policy.

### **Planning Policies**

32. National Planning Policies:  
PPS1, PPS3

33. Adopted Chorley Borough Local Plan Review  
Policies: GN1 / GN5 / HS1 / HS3 / HS4 / HS6 / HS21 / TR4

34. Supplementary Planning Guidance  
Design SPG

35. Interim Policy  
Private Residential Garden Development  
Interim Playspace Guidelines

### **Planning History**

36. The site has been the subject of the following planning applications:

- 07/00978/FUL – Erection of nine detached houses (Withdrawn)
- 07/01418/FULMAJ - Erection of 12No detached residential dwellings this is to include the demolition of 24 Lancaster Lane (Withdrawn)
- 08/00787/FUL - Erection of 9 detached residential dwellings following the demolition of 24 Lancaster Lane (Granted Planning Permission)
- 08/00967/FUL - Substitution of house type (Plot 5) Plot handing (Plot 6) and garage substitution (Plot 4) on previously approved layout (Granted Planning Permission)
- 09/00108/FUL - Erection of 5 additional units at 26A Lancaster Lane and proposed amendments to previously approved layout (08/00787/FUL) 24 Lancaster Lane, including plot substitution of house type - plot 4 and amended position of plot 8 (Granted Planning Permission)
- 10/00767/DIS - Application to discharge conditions attached to planning permission no. 08/00787/FUL, which permitted residential development on the site
- 10/00791/DIS - Application to discharge conditions attached to planning permission no. 09/00108/FUL, which permitted residential development on the 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 area 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 weight in favour of approving the development.
2. The first floor windows in the front 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.