

**Item 4d**                      **12/00042/DIS**

**Case Officer**              **Mrs Nicola Hopkins**

**Ward**                         **Eccleston And Mawdesley**

**Proposal**                    **Application to discharge condition 6 (boundary treatments) attached to planning approval 11/00290/REMMAJ/1**

**Location**                    **Sagar House Langton Brow Eccleston Chorley Lancashire**

**Applicant**                    **Barratt Homes Manchester**

**Consultation expiry: 15 March 2012**

**Application expiry: 12 April 2012**

### **Proposal**

1. This application relates to an application to discharge condition 6, boundary treatments, attached to planning approval 11/00290/REMMAJ/1.
2. Reserved matters planning approval was granted to Barratt Homes in January 2011 to build 70 dwellings at the site. This approval was subsequently amended by virtue of Section 73 application reference 11/00290/REMMAJ/1.

### **Recommendation**

3. It is recommended that condition 6 is discharged.

### **Main Issues**

4. The main issues for consideration in respect of this planning application are:
  - Background information
  - Condition 6

### **Representations**

5. 1 letter of objection has been received raising the following concerns:
  - The Boundary treatment is not acceptable.
  - The new hedge they show does not really exist as they state but that "over time" it will grow to approx. 6 foot- until then the view will be wood fences- a mature hedge should be installed.
  - Issues with seepage running through our properties causing sections of our walkway to be covered in black slippery slime and currently ice - some form of field drain similar to the one installed by Northern Trust between Sagar House field and the Green field is required.
6. 1 letter has been received stating that the preference is to reduce the existing conifers along the boundary with Langton Brow (with a 1.8 metre close boarded fence on the development side) to 2.5 metres in height.
7. 1 letter has been received from a resident of Shelley Drive including 2 illustrations detailing the boundary treatment details they would like put in place to ensure that their rights to air are not infringed upon. Their property is 6 feet 4 3/8 inches lower than the field.

### **Following the receipt of amended plans the following representation were received:**

8. 1 letter was received raising the following points:

- We are all concerned predominantly with privacy we would like the 1800mm close boarded privacy fence reinstated. We understand that the fence was lowered so the owners of the new houses could maintain the hedge somewhat, but we are all worried that in the future the new owners might cut the hedge to the level of their fence which is 1200mm.
  - laurel genolia would be the best hedge as it is evergreen and very dense, but also this type of laurel requires little trimming.
  - We also want the hedge to be at least 1500mm when planted.
  - Because we are concerned about privacy now and in the future, we want it noted in the new houses covenants that the new owners must never change their fence to a different type or remove the fence.
9. 1 letter has been received stating that the boundary treatment is still not acceptable for the following reasons:
- This now gives them two security fences and leaves us with no privacy fence. Please reinstate the 1800mm privacy fence, if hedge maintenance is the reason it has been lowered we (7/9/11 Shelley) will maintain the hedge if is not of a thorned variety i.e. laurel vs. hawthorn.
  - The distance between the two fences would be better at 1000mm rather than 750mm. This will allow a denser hedge to form.
  - The actual hedge as mentioned above must not have prickles as the 3 houses have children that play in the yards.. A good hedge could be cherry laurel, which is a standard hedging plant and is an evergreen that would look good year round.
  - There is still no mention of drainage/seepage control in the boundary treatment layout.

## **Assessment**

### Background Information

10. Reserved matters approval was originally granted to Barratt Homes at the site in January 2011. Condition 6 of the reserved matters approval stated:

Prior to the commencement of development all details for the boundary treatment that bounds the properties between those on 7-11 (odds) Shelly Drive and the proposed development and the boundary of the rear of those properties on Langton Brow (southern edge) shall be submitted to and agreed in writing by the Local Planning Authority. This shall include providing details of the level of the fence in relation to the existing ground level. The discharge of condition application for the fencing to be consulted on with residents and if there are objections then the discharge application should be referred to the Chair and Vice Chair of the Development Control Committee for a decision about reference to committee. The agreed scheme shall be maintained at all times to the satisfaction of the Local Planning Authority.

*Reason: - To protect the amenities of the neighbouring properties and in accordance with saved policies GN5 and HS4 of the Adopted Chorley Local Plan Review.*

11. By virtue of a S73 application, Barratt Homes, applied to vary this condition in March 2011. Barratt Homes initially wanted to replace *Prior to the commencement of development* with *Prior to the occupation of the dwellings*. However it was considered that this variation would result in the potential for the development to progress to an advanced stage without an agreed boundary treatment solution.

12. As such it is considered reasonable to vary the condition as follows:

Within 3 months of this planning approval or prior to the construction of plots 40-45 and 67-70 (whichever is the earliest) all details for the boundary treatment that bounds the properties between those on 7-11 (odds) Shelley Drive and the proposed development and the boundary of the rear of those properties on Langton Brow (southern edge) shall be formally submitted, as a discharge of condition application, to the Local Planning Authority. This shall include providing details of the level of the fence in relation to the existing ground level and full details of the consultation with neighbours and copies of any exchanges of correspondence in this regard. The Local Planning Authority will then consult with residents

on the discharge of condition application and if there are objections then the discharge application should be referred to the Chair and Vice Chair of the Development Control Committee for a decision about reference to committee. The agreed scheme shall be maintained at all times to the satisfaction of the Local Planning Authority.

13. It is considered that this compromise allowed part of the development to commence (although not the plots immediately adjacent to the affected properties), whilst putting the onus on the developers to agree an appropriate way forward within a restricted time period with the relevant residents.

#### Condition 6

14. Following the grant of the S73 application Barratt Homes contacted the residents of Langton Brow on 10 October 2011 setting out their proposals for the boundary treatment. This included reducing the height of the existing hedge to 2.5 metres and erecting a 1.8 metre high timber close boarded fence on the development site which will denote the new boundary between the properties and the development.
15. Barratt Homes received two responses to this letter, from 368 and 372 Langton Brow, confirming acceptance of this approach. 1 letter was received objecting to this approach.
16. In respect of Shelley Drive Barratt Homes wrote to 7, 9 and 11 Shelley Drive on 25<sup>th</sup> May 2011 including several boundary treatment options. None of the suggested options were considered suitable to the residents and the main point raised by the residents was reinstatement of the drainage ditch within this area.
17. The variation of condition was approved in June 2011 and no details of the any further correspondence with the residents of Shelley Drive, since May 2011, have been forwarded in support of the application. The applicant has confirmed that the Shelley Drive residents were not re consulted following the approval of the S73 application. This was partly due to the fact that the residents actually sketched out what they wanted in terms of a satisfactory boundary treatment, which Barratt Homes stated isn't feasible, and also partly because the contracts manager and site manager had separate meetings with the residents on site to discuss the way forward which was met with a non constructive outcome, so it was not considered that reconsultation would be a appropriate way forward.
18. In accordance with the requirements of the condition Barratt Homes have submitted details of the proposed boundary treatments along Langton Brow and Shelley Drive by virtue of this discharge of condition application. The neighbours have been consulted and only one response has been received from Langton Brow confirming that their preference is to reduce the existing hedge to 2.5 metres with a 1.8 metre fence on the development site. This reflects the solution put forward by Barratt Homes and in the absence of objections from residents along Langton Brow, in accordance with the requirements of the condition, is considered to be an acceptable way forward.
19. The main issue in respect of discharging this condition is the boundary treatment along Shelley Drive. Barratt Homes originally suggested retaining the existing fence on the Shelley Drive side, planting a hedge to grow to 1.8 metres high in time and erecting a 1.8m high fence on the development side.
20. As set out above initially 2 residents objected to this solution and requested that the field drain is incorporated. One resident has suggested that the existing fence on the Shelley Drive side is retained, a hedge to match the height of the fence is planted, a 'buffer area' of planting incorporating field drainage is incorporated and a fence is erected on the development side.
21. In accordance with the requirements of the condition due to the objections received this discharge of condition application is referred to the Chair and Vice Chair of the Development Control Committee for a decision about reference to committee.

22. The originally suggested solution raised concerns as the 'buffer area' would be segregated from both Shelley Drive and the development by fencing which raises maintenance implications. It is acknowledged that the condition requires the agreed scheme to be maintained at all times however this area is proposed to form part of the garden areas associated with the plots along this part of the site and the suggested solution would reduce the amount of private garden area associated with these plots. This has the potential to lead to pressure in the future to reduce the extent of the 'buffer area'.
23. Obviously the planting of any hedge along this boundary raises maintenance issues and the originally suggested solution put forward by Barratts Homes incorporated the planting of a hedge and then a 1.8 metre high timber fence which would render maintenance impossible. As such Barratt Homes have suggested erecting the timber close boarded fence along the boundary with the hedge inboard however this would result in the existing residents looking at a fence and not a hedge. The other solution of a hedge then a fence would put the maintenance liability onto the existing residents which is not considered possible due to the level differences.
24. To address this maintenance issue the plans along this boundary were amended to increase the space between the two fences to 750mm and reducing the height of the fence in the development side to 1.2 metres high. This allows for the hedge to be maintained by the future owners and allows for light to access the hedge.
25. Barratt Homes have confirmed that for immediate impact an evergreen Laurel will be planted at an approx height of 5ft (1.5 metres). This ensures that it is still adolescent enough for the roots to take but also gives an immediate impact as possible.
26. As set out above 2 letters of concern have been received in respect of the amended solution however the purpose of a boundary treatment condition is to ensure that adequate levels of privacy are provided for the existing and future residents. Although a 1.2 metre high fence is not usually adequate to provide a decent level of privacy taking into account the retention of the existing fence, the planting of a 1.5 metre high hedge and the level differences in this situation the solution will provide privacy whilst ensuring the hedge can be maintained and achieve an adequate level of light.
27. It is also noted that drainage is raised as a concern however surface water drainage on this site was adequately dealt with via a separate condition and a drainage ditch is not considered necessary in this part of the site. Barratt Homes have confirmed that *installing a land drain along this boundary would not be suitable, primarily because there is no suitable location to outfall a land drain. United Utilities do not allow land drainage connections to sewers, and could therefore jeopardise the adoptability of the main drainage network. Ordinarily land drains would drain to a stream or watercourse, however there are no watercourses in the vicinity of the site. We also feel that it is unnecessary as any problems experienced by the existing neighbouring properties are caused because the development site is higher than the neighbouring properties, thus causing the surface run-off/ground water to run off and/or infiltrate to the lower neighbouring properties. The redevelopment of the site dramatically increases the impermeable area and thus decreases the amount of surface water infiltrating to ground by approximately 50%, as all roofs, driveways, and roads are now positively drained to the main drainage network. In addition, buildings, kerbs, fences, drainage trenches and landscaping, should all help in "cutting off" surface run-off that may have previously run off the site to the neighbouring properties. Furthermore the addition of the hedge will help alleviate the problems of surface run-off and/or infiltration due to increased water demand from the hedge.*

### **Overall Conclusion**

28. It is acknowledged that the residents along Shelley Drive object to the suggested boundary treatment, particularly taking into account the land level differences; however it is considered that the suggested solution will provide adequate levels of privacy whilst providing a 'softer' edge by virtue of the proposed hedge. In this regard a 1.5 metre high Laurel hedge will be required to address the concerns raised in respect of providing a suitable hedge from day one.

29. Shelley Drive is sited to the south of the development site and as such the proposed boundary treatment is located along the northern boundary ensuring that loss of sunlight is not an issue.
30. Concerns have been raised that the future owners will reduce the height of the hedge to 1.2 metres to match the height of the fence on the development side however the condition allows for *The agreed scheme shall be maintained at all times to the satisfaction of the Local Planning Authority*. As such the discharge of the condition can be on the proviso that the hedge is maintained at a height of 1.8 metres, once matured, at all times.

#### Non-material Planning Considerations

31. The neighbours consider that their solution will ensure that their rights to air are not infringed upon however the condition was attached to protect the amenities of the neighbouring properties in respect of privacy, right to air is not a material planning consideration.

### **Planning Policies**

#### North West Regional Spatial Strategy

Policies: DP1, DP4, DP7, RDF1, RDF2, W3, L4, L5, RT9, EM5, EM15, EM16, EM17.

#### Adopted Chorley Borough Local Plan Review

Policies: GN3, GN5, GN9, EP4, EP9, HT10, EP17, EP18, HS4, HS5, HS6, HS8, EM4, TR1, TR4, TR18, LT14.

#### Supplementary Planning Guidance:

- Statement of Community Involvement
- Design Guide

#### Chorley's Local Development Framework

- Policy SR1: Incorporating Sustainable Resources into New Development
- Sustainable Resources Development Plan Document
- Sustainable Resources Supplementary Planning Document

#### Joint Core Strategy

Policy 1: Locating Growth

Policy 2: Infrastructure

Policy 4: Housing Delivery

Policy 7: Affordable Housing

Policy 17: Design of New Buildings

Policy 22: Biodiversity and Geodiversity

Policy 27: Sustainable Resources and New Development

### **Planning History**

**5/5/5189-** Administrative and Executive Building. Approved 1965

**08/01244/OUTMAJ-** Outline application for the erection of 82 dwellings and associated roads and open space. Withdrawn

**09/00146/OUTMAJ-** Outline application for the erection of 82 dwellings and associated roads and open space. Refused

**09/00802/OUTMAJ-** Outline application for the erection of 70 dwelling houses with associated roads and open spaces. Approved September 2010

**10/00866/REMAJ-** Reserved matters application for the erection of 70 dwellings (1.5 storey, 2 storey and 2.5 storey) with associated roads and open spaces. Approved January 2011

**11/00291/DIS-** Application to discharge conditions 4, 5, 9, 10, 12 and 17 attached to planning approval 10/00866/REMAJ. Conditions discharged.

**10/00866/REMAJ-** Reserved matters application for the erection of 70 dwellings (1.5 storey, 2 storey and 2.5 storey) with associated roads and open spaces. Approved January 2011

**11/00291/DIS-** Application to discharge conditions 4, 5, 9, 10, 12 and 17 attached to planning approval 10/00866/REMAJ. Conditions discharged.

**11/00290/REMAJ/1-** Section 73 application to vary conditions 6 (boundary treatments), 7 (Code for Sustainable Homes) and 16 (approved plans) attached to planning approval 10/00866/REMAJ. Approved June 2011

**Recommendation: Condition(s) discharged**