

Item B. 7 **07/00497/FUL** **Permit (Subject to Legal Agreement)**

Case Officer **Caron Taylor**

Ward **Euxton South**

Proposal **Erection of two new dwellings,**

Location **Land Rear Of 31 To 39 Park Avenue And North Of 173 Wigan Road Euxton**

Applicant **Mr Robert Green**

Proposal: The application is a full application for the erection of two detached dwellings with integral garages. Both dwellings will have five bedrooms and will be built of brick with a slate roof.

The nearest point of the dwelling proposed to the north of the site will be set back approximately 30m from Wigan Road, while the one to the south will be set back nearly 34m. There is an existing private access from the A49 that serves 173 Wigan Road, which will also serve the two dwellings now proposed.

Background: The application site is situated in the valley bottom adjacent to Wigan Road, Euxton at the point in the road where it dips down to Chapel Brook. The site itself is relatively flat although starts to rise up to the south as the properties on Park Avenue are at a higher level than the application site, and drops down to the brook which runs east to west to the north of the site. To the east of the site is an elevated pipeline, pumping station and control building.

Planning History: There have been a number of planning applications and appeals at the site:

Ref: 02/00882/OUT **Decision:** Refused
Decision Date: 9 July 2003
Description: Outline application for erection of 2 no. dwellings and construction of private drives, gates and associated landscaping

APPEAL ALLOWED

Ref: 03/00261/FUL **Decision:** Refused
Decision Date: 15 September 2003
Description: Erection of a detached dwelling
(note: this application was determined by the Local Authority before the outcome of the above appeal was received)

Ref: 03/01018/CTY **Decision:** No objections
Decision Date: 22 October 2003
Description: Change of use of land to operational land & construction of control building with vent stack, new access, timber gate & local ground reprofiling (Lancashire County Council application)

Ref: 05/00081/CTY

Decision Date:

Description:

Decision: No objections

28 February 2005

To construct a pumping station, control building, hand railings, fencing, realignment of a section of pipe bridge, new access, local land reprofiling and associated fencing (Lancashire County Council application)

Planning Policy: GN1: Main Settlement Policy
GN5: Building Design
HS6: Housing Windfall Sites
LT15: Amenity Open Space
EP5: Wildlife Corridors

Consultations: Environment Agency

State that the site is partially within Flood Zone 3 but the application is accompanied by a flood risk assessment as required by PPS25: Development and Flood Risk.

Originally the Flood Risk assessment proposed that the house nearest the brook be set at 40.5 AOD. The Environment Agency considered that this would have put the dwelling as an unacceptable risk of flooding and the floor levels should be set no lower than 41.0m AOD in order to reduce this risk to an acceptable level. They now have no objection to the proposals provided a condition is applied that all floor levels shall be set at a minimum of 41 metres (AOD) and ground levels should not be raised adjacent to the brook in order to ensure the flood flow path is retained.

Lancashire County Council Ecologist

Recommended that an ecological assessment be undertaken to determine any potential impacts. There is an old stable block on the site which may be used as a roost by bats.

A bat survey has been received showing that there is no evidence of bats in the wooden building. Conditions regarding breeding birds will be applied to any permission.

United Utilities

United Utilities have amended their comments during the life of the application. They state that they do not intend to place any restrictions on Mr Greens' proposals to build over the sleeved section of the pumped main except where there is a risk of compromising the structural integrity of the main at the limits of the sleeved section. The front and rear elevation of the proposed properties immediately abutting the sleeved section of the pumped main should be set back a minimum of 4 metres from the end of the sleeved section. Amended plans have been received and the case officer has checked with the agent that the position of the dwellings comply with the above comments.

Lancashire County Highways

Asked for amendments to the entrance arrangements which have been received.

Planning Policy

The site for the proposed development is greenfield therefore residential development will only be permitted if the applicant can

comply with criteria (f) of Policy HS6 of the adopted Chorley Local Plan Review and demonstrate that there are no suitable previously developed sites in the settlement.

However, LT15 regarding amenity open space is also relevant. Even if the applicant can meet criteria (f) of Policy HS6, development on this site should be refused, as it would lead to the loss of amenity open space which makes a significant contribution to the character of the area.

Representations: Three letters of objection to the application have been received from residents of Park Avenue. Their objections can be summarised as:

- The area is a haven for local wildlife, especially jays;
- The site is a welcome open space on a very busy stretch of road;
- The proposed access is dangerous at the bottom of a hill, both north and south traffic is usually in excess of the 30 miles per hour speed limit;
- The size and scale of the house are out of context of the houses on Park Avenue;
- There are windows in the properties that will overlook their properties and garden affecting their privacy;
- The houses will result in a loss of light to their garden and properties;
- The proposals will spoil their view;
- The site is the only open aspect space in the area and beneficial to many animals;
- The gable end of plot 2 will be close to the boundary of the properties and from currently looking at open land they will now be looking at a gable end or roof or rear of a property, severely affecting privacy, light and the visual aspect from the property;
- Planning permission has been refused on building on this land previously and there has been no change in circumstances.

Assessment:

Principle of Two Dwellings

There have been a number of applications for dwellings on this site in the past. The most significant of these being 02/00882/OUT - outline application for erection of 2 dwellings and construction of private drives, gates and associated landscaping, with approval sought for siting, the means of access and landscaping. The Local Planning Authority refused this application on 9th June 2003 on the grounds of highway safety and loss of amenity space. The applicant appealed against this decision.

Before the appeal was determined a further full application was submitted for a single dwelling on the site (03/00261/FUL). This was refused by the Authority on similar grounds to the previous application of loss of amenity space and in addition the Windfall Housing Supplementary Planning Guidance which had come into force at the time.

Following this second refusal the appeal decision for the 2002 application for two dwellings was received on 28th July 2004 (02/00882/OUT) and had been allowed. This outline permission granted at appeal is still extant and has therefore established the principle of two dwellings on the site. The current application is a

full application rather than reserved matters as the layout of the dwellings has changed.

In determining the appeal the inspector also considered issues that are relevant to the current application:

- Effect of the proposed development on the character and appearance of the this part of Euxton;
- The effect of the proposed development on highway safety and the free flow of traffic on Wigan Road.

Impact on Character and Appearance of the Area:

The appeal inspector stated in his decision report that the site is part of a break in the built form of Euxton. However, it is contained by the woodland, the railway embankment and the adjacent housing, and is not an extensive area of open land. The principal feature of the gap is the woodland in the vicinity of the site, which continues to the west of Wigan Road and it is this, rather than the appeal site, which provides a clear visual break between development to the north and south of the brook. Roadside tree cover augments this important contribution to the character of the area. The extent of the tree cover is such as to direct views from both the north and south along Wigan Road, and there are no long distance views into the site. In the valley bottom the grassed area to the south of the brook is clearly seen, but this is restricted to a short length of Wigan Road. Given the extent of tree cover in the area, the inspector anticipated that views towards the site will still remain restricted after leaf fall and the appeal site does not make a significant contribution to the character of the area, either individually or as part of a wider network of open space. Consequently, the inspector did not find that it is amenity open space of the type which Policy LT15 of the Local Plan seeks to protect.

He went on to say that the proposed houses would be sited back from the highway in line with the existing houses to the south on Park Avenue. As they would be set back into the site and the existing tree cover directs views along Wigan Road, the inspector did not consider that they would be prominent or intrusive features along this stretch of road. He concluded that the appeal site does not make a significant contribution to the character of the area, and that the proposed development would not be damaging to the character and appearance of this part of Euxton.

It is considered therefore that as the current dwellings are to be set back from Wigan Road and that the outline permission on the site is still extant that impact on the character and appearance of the area could not be a reason for refusal.

Highway Safety

With regards to highway safety and the free flow of traffic the inspector also considered this aspect of the site at the appeal. Adequate visibility at the site onto the A49 had already been accepted by the Highways Authority, however they were concerned about the prospect of parking on Wigan Road and the effect of this and the increased level of usage of the access on highway safety and the free flow of traffic. The inspector noted there would be parking and turning space within the curtilages of both houses and he considered that it more likely that vehicles would be left in the proposed cul-de-sac than on the main road and that the modest level of traffic generated by the proposal

would not increase the prospect of conflict on Wigan Road. He concluded that the proposed development would neither reduce highway safety nor impede the free flow of traffic on Wigan Road.

Access to the site from Wigan Road, has therefore been established by the appeal decision.

Design and Appearance

The dwellings have been designed to pick up the theme of number 173 Wigan Road to south, which is accessed by the same access of Wigan Road. This property is at a higher level than the current application site and the two dwellings proposed would not be viewed together directly with this property, however is not considered that the design of the dwellings is unacceptable. There is a wide variety of housing types within Euxton and the dwellings will not be set within a traditional street setting. The properties on Park Avenue have their rear elevations facing the site and are at a higher level, so the dwellings will not be viewed directly in the context of these properties. Samples of materials will be conditioned to be approved by officers.

Neighbour Amenity

The nearest neighbours to the application site are the properties on Park Avenue to the south. The rear gardens of these properties back onto the application site but are at a higher level than the site itself. The nearest of the proposed dwellings to these properties is that proposed on plot 2. This dwelling will have lowered eaves at the front with the use of dormers in the front elevation. In the side (south) elevation is a door at ground floor level and a window at first floor. However, this window will serve a bathroom and an obscure glazing condition can be applied to it to prevent overlooking to the properties on Park Avenue. All windows to habitable rooms will face east or west.

Although the properties on Park Avenue will look onto the proposed dwellings, the scheme will not result in direct overshadowing, as they will be due north of the properties on Park Avenue. In addition, the properties on Park Avenue are at a higher level than the application site and the principle of two dwellings on the site has already been established by the appeal.

One of the objectors has commented that there is a window above the garage of the dwelling on plot 1 that will look over their property and garden. However, this window will be over 30m away from their garden boundary, well in excess of the Council's interface guidelines and is not directly facing the property.

Ecology

A bat survey has been submitted and has found evidence of bats in the old stable block on the site. The appeal inspector did not consider that the proposed development would prejudice the integrity of the wildlife corridor and the proposals would not conflict with Policy EP5. It is not considered that there has been a change in circumstances on the site in this respect since the appeal decision, especially as United Utilities has undertaken significant works on the site since the appeal.

Commuted Sum

As this application relates to two new dwellings there is a requirement for a financial contribution towards equipped play

space of £4798. This can only be secured through a Section 106 agreement.

Conclusion:

The fact that there is extant outline permission for two dwellings on this site, granted on appeal, has established the principle of the development. The design of the dwellings is considered acceptable, as they will not be viewed directly in the context of the properties on Park Avenue, which are at a higher level and whose rear gardens face the application site. In addition, there are a wide variety of house designs in the immediate area. In terms of neighbour amenity and proximity to the properties on Park Avenue, the layout of the proposed dwellings does not differ significantly to that allowed by the extant outline permission. In addition, the dwellings proposed will be to the north of the properties on Park Avenue and will be at a lower level. It is therefore considered that the proposals comply with policy HS6.

The application is therefore recommended for approval subject to conditions and the signing of a Section 106 agreement for a financial contribution towards equipped play space.

**Recommendation: Permit (Subject to Legal Agreement)
Conditions**

1. The proposed development must be begun not later than three years from the date of this permission.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. Neither of the dwellings hereby permitted shall be occupied until the site access has been altered in accordance with the approved plans.

Reason: In the interests of highway safety and in accordance with Policy TR4 of the adopted Chorley Borough Local Plan Review.

3. That part of the access extending from the kerb line/edge of carriageway for a minimum distance of 5 metres into the site shall be paved in permanent construction, in accordance with details to be first approved in writing by the Local Planning Authority, before the access is used for vehicular purposes.

Reason: To prevent loose surface material from being carried on to the public highway thus causing a potential source of danger to other road users and in accordance with Policy No. TR4 of the Adopted Chorley Borough Local Plan Review.

4. All floor levels shall be set at a minimum of 41 metres (AOD). Ground levels should not be raised adjacent to the brook in order to ensure the flood flow path is retained.

Reason: To reduce the danger to intended occupants of the buildings from potential flooding.

5. The development hereby permitted shall not commence until samples of all external facing materials to the proposed building(s) (notwithstanding any details shown on previously submitted plan(s) and specification) have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out using the approved external facing materials.

Reason: To ensure that the materials used are visually appropriate to the locality and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactment thereof, no extension to the

dwellings, outbuildings, or other works permitted by Schedule 2, Part 1, Class A, B, C, D or E shall be constructed or erected without express planning permission first being obtained (other than those expressly authorized by this permission).

Reason: To protect the appearance of the locality and in accordance with Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.

7. The site shall be drained on separate systems for foul and surface water, and no surface water shall enter the foul water system.

Reason: To ensure a satisfactory means of drainage in accordance with Policy Nos. EP17 of the adopted Chorley Borough Local Plan Review.

8. No development shall take place until details of the proposed surface water drainage arrangements have been submitted to and approved by the Local Planning Authority in writing. No part of the development shall be occupied until the approved surface water drainage arrangements have been fully implemented.

Reason: To secure proper drainage and to prevent flooding and in accordance with Policy Nos. EP18 and EP19 of the Adopted Chorley Borough Local Plan Review.

9. Before the development hereby permitted is first commenced full details of existing and proposed ground levels and proposed building slab levels (all relative to ground levels adjoining the site) shall have been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail shown on previously submitted plan(s). The development shall only be carried out in conformity with the approved details.

Reason: To protect the appearance of the locality, in the interests of the amenities of local residents and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.

10. Before the development hereby permitted is first commenced, full details of the position, height and appearance of all fences and walls to be erected to the site boundaries (notwithstanding any such detail shown on previously submitted plan(s)) shall have been submitted to and approved in writing by the Local Planning Authority. No building shall be occupied or land used pursuant to this permission before all walls and fences have been erected in accordance with the approved details. Fences and walls shall thereafter be retained in accordance with the approved details at all times.

Reason: To ensure a visually satisfactory form of development, in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review.

11. All windows in the south elevation of the first floor of the dwelling on plot 2 (shown as a bathroom on the approved plans), shall be fitted with obscure glass and obscure glazing shall be retained at all times thereafter.

Reason: In the interests of the privacy of occupiers of neighbouring property and in accordance with Policy Nos. GN5 and HS4 of the Adopted Chorley Borough Local Plan Review.

12. Notwithstanding the provision 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 windows other than those expressly authorised by this permission, or as subsequently agreed in writing by the local planning authority, shall be inserted or constructed at any time at first floor level or above in the south elevation of the dwelling on plot 2 hereby permitted.

Reason: To protect the amenities and privacy of the properties on Park Avenue.

13. The development hereby permitted shall not commence until full details of the colour, form and texture of all hard ground- surfacing materials (notwithstanding any such detail shown on previously submitted plans and specification) have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in conformity with the approved details.

Reason: To ensure a satisfactory form of development in the interest of the visual amenity of the area and in accordance with Policy No. GN5 of the Adopted Chorley Borough Local Plan Review.

14. All planting, seeding or turfing comprised in the approved details of landscaping as shown on the submitted plans shall be carried out in the first planting and seeding seasons following the occupation of any buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interest of the appearance of the locality and in accordance with Policy No GN5 of the Adopted Chorley Borough Local Plan Review.

15. The garages hereby permitted shall only be used for purposes incidental to the enjoyment of the dwellinghouse, including the parking of cars. The garage shall not be used for any trade or business purposes.

Reason: In order to safeguard the residential amenity and character of the area and in accordance with Policy No. HS4 of the Adopted Chorley Borough Local Plan Review.
