

## Planning Committee

18 January 2018

**Reference:**  
**APP/17/01222**

**Area Team:**  
**North Team**

**Case Officer:**  
**Mr N Williams**

**Ward:**  
**Hoylake and Meols**

**Location:** Ashton Court, BANKS ROAD, WEST KIRBY, Wirral CH48 0RJ  
**Proposal:** Demolition of existing buildings and erection of 14 No. new build residential properties

**Applicant:** Starfish Commercial Ltd  
**Agent :** NJL Consulting

### Site Plan:



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### Development Plan Designation:

Primarily Residential Area

### Planning History:

Location: Ashton Court, BANKS ROAD, WEST KIRBY CH48 0RJ  
Application Type: Full Planning Permission  
Proposal: Demolition of existing buildings and erection of 14 No. new-build residential properties  
Application No: APP/16/00823  
Decision Date: 11/11/2016

## **Summary Of Representations and Consultations Received:**

### REPRESENTATIONS

Councillor Gerry Ellis requested that the application be taken out of delegation on the grounds that the site is too small for 14 dwellings; parking and traffic problems in the area would be unacceptable increased; and privacy and overlooking of some of the adjacent properties would be unacceptable.

Having regard to the Council's Guidance for Publicity on Planning Applications, 102 notifications were sent to adjoining properties and a site notice was displayed near the site. At the time of writing, there had been two petitions of objection received containing 900 and 73 signatures, together with 25 individual objections. The objections can be summarised as:

- Application is the same as previous refusal;
- Overlooking and loss of privacy;
- Parking and traffic issues;
- Overbearing impact;
- Development will spoil the character of the area;
- Loss of light;
- Overdevelopment of the site;
- Increase in noise;
- Loss of gardens and green space;
- Loss of view;
- Existing buildings should be retained;
- Proposed buildings are unsightly;

### CONSULTATIONS

Head of Environment & Regulation (Pollution Control Division) - No objection

Head of Environment & Regulation (Traffic and Transportation Division) - No objection

### **DIRECTORS COMMENTS:**

#### **REASON FOR REFERRAL**

Councillor Gerry Ellis requested that the application be taken out of delegation on the grounds that the site is too small for 14 dwellings; parking and traffic problems in the area would be unacceptable increased; and privacy and overlooking of some of the adjacent properties would be unacceptable.

In addition, two qualifying petitions of objection have been received.

#### **INTRODUCTION**

The application is for the demolition of the existing buildings at Ashton Court and the erection of 14 new-build residential properties.

The proposal consists of 13 No. three-storey dwellings fronting onto Banks Road, either side of its junction with Ashton Drive, with an additional two-storey detached dwelling set within the southern site (to the rear of 4 - 8 Ashton Drive).

The application is a resubmission of a previous application (APP/16/00823) which was refused for the following reasons:

- Notwithstanding the principle of residential development within the Primarily Residential Area, the development proposed, and notably Plots 7 & 8, by reason of scale, siting, design and the relationship with neighbouring properties, would result in an unneighbourly form of development that would appear overbearing and result in a loss of privacy for occupants of neighbouring properties, particularly 3 and 4 Ashton Drive. The development is therefore contrary to Policy HS4 (New Housing Development) of the Wirral Unitary Development Plan and the principles of

the National Planning Policy Framework

- The proposed development, by reason of the siting and layout of Plot 14 at the south east end of the site, and having regards to the restricted and enclosed nature of this part of the site, together with its relationship with the adjacent sub-station, would result in a cramped form of development that also fails to provide a well surveilled environment that would be to the detriment of the safety and amenities of the occupiers of this property. The development is therefore contrary to Policy HS4 (New Housing Development) of the Wirral Unitary Development Plan and the principles for good design required by the National Planning Policy Framework

A subsequent appeal was dismissed by the Planning Inspectorate. However, in consideration of the reasons for refusal, the Inspector considered that the proposed development was actually acceptable, and the appeal was dismissed on the grounds that the appellant had not provided a way to satisfactorily secure the affordable housing provision. Whilst a Section 106 Agreement would have been signed had the original application been approved, the Inspector was of the opinion that an executed Agreement should have been submitted with the appeal. As it wasn't, the appeal was dismissed. Therefore, due to the Planning Inspector's report this current scheme is identical to the previous application, besides the affordable housing provision.

### **SITE AND SURROUNDINGS**

The application site covers two areas of land on either side of Ashton Drive at its junction with Banks Road. On both sites there is currently a vacant, two-storey building which were previously used for 22 residential units and named Ashton Court. These buildings take up most of each site, with small areas of landscaping/grass to the front and rear of each, with the southern complex having an extra area of amenity space extending to the rear of properties on Ashton Drive.

The site is designated in the Wirral Unitary Development Plan as being in a Primarily Residential Area, with Ashton Drive containing traditional two-storey, semi-detached dwellings and other residential uses directly to the north of the site. However, the application site also fronts onto Banks Road, much of which is within the Key Town Centre of West Kirby (including the properties directly to the south of the site and on the opposite side of Banks Road) and as such there are numerous commercial properties within the immediate area, and this means that the character of the surrounding area is fairly varied.

### **POLICY CONTEXT**

The proposal is subject to Wirral Unitary Development Plan Policy HS4: Criteria for New Housing Development, which sets out criteria for new residential schemes, Policy GR5: Landscaping and New Development, Policy TR9, and Policies WM8 and WM9 in the Waste Local Plan.

The National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. There is a presumption in favour of sustainable development which should be approved without delay unless the adverse impacts of doing so outweigh the benefits. NPPF part 7 makes it clear that good design is a key aspect of sustainable development and that poor design which fails to take opportunities for improving the character and quality of the area should be refused.

There is a requirement for 20% affordable housing provision for this scheme. The applicant had previously agreed to this in the form of on-site provision, with 3 of the proposed units to be used for affordable housing. Had the previous planning application been approved then this would have been secured through a Section 106 Agreement. However, the application was refused and the applicant did not submit a legal agreement with the subsequent appeal and the appeal therefore failed on this basis.

For this current application, the applicant has now applied the Vacant Building Credit (VBC) to the site. The VBC is national policy which provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is to be demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of the vacant buildings when calculating any affordable housing contributions to be sought. The applicant has indicated that the 22 existing units on the site were small, bedsit type units with shared bathrooms which were not considered fit for purpose and which were therefore hard to let. Given

these problems with the existing buildings, it is therefore considered that the site has not been made vacant for the sole purposes of redevelopment. Affordable housing will therefore only be required for any increase in floorspace.

In this instance, the existing buildings (to be demolished) have a total floorspace of approximately 1,265 square metres. The total floorspace of the proposed development is 1,355.88 square metres, which equates to an increase of 90.88 square metres, or a 7% increase on the existing floorspace. On this basis, it is proposed that a commuted sum of £9,291 will be provided towards affordable housing. This figure is considered to be acceptable and this commuted sum will therefore be secured through a Section 106 Agreement.

## **APPEARANCE AND AMENITY ISSUES**

### Previously Refused Application and Dismissed Appeal

Following the refusal of the previous application (APP/16/00823), a subsequent appeal was dismissed. However, the appeal was only dismissed on the basis that the appellant had not submitted a Unilateral Undertaking or an executed Section 106 Agreement to secure the provision of affordable housing. The Planning Inspector concluded that "the proposed development would not harm the living conditions of nearby residents and would provide adequate living conditions for the future occupiers of plot 14, but this does not outweigh the adverse effect that would be caused by not making adequate provision for affordable housing."

On the basis of the Planning Inspector's report, it is therefore considered that the proposed development would not result in an unneighbourly form of development that would appear overbearing and result in a loss of privacy for occupants of neighbouring properties, particularly 3 and 4 Ashton Drive. Additionally, it is considered that Plot 14 would provide adequate living conditions with regards to outlook and security. The application could not, therefore, be refused for the reasons set out previously. Regardless of this, this report includes the assessment of the original application, which is still relevant to the case.

### Plots 1 - 13

Although part of the existing buildings come within 5m of the front boundary, the majority of the buildings are set back from Banks Road by approximately 10m. However, this is generally at odds with most of Banks Road, where buildings often project right up to the back of the pavement. This is the case both opposite the site and directly to the south of the site. The proposed development will therefore be in keeping with this, with each new dwelling being only slightly set-back from the back of the pavement and a small landscaping area for the two dwellings either side of the Ashton Drive junction. Given the prevalence of buildings set right up to the back of the Banks Road pavement, the proposed development will not be out of keeping with the area nor will it have an adverse impact upon the character of the area or the general pattern of development throughout Banks Road.

There is great variety in terms of the scale of buildings along Banks Road, including a number of three-storey buildings and a four-storey residential block further north of the application site. It is therefore considered that three-storey dwellings will not appear out of scale on the street scene and will be generally in keeping with this aspect of the character of the surrounding area.

Similarly, there is a great variety in the design of buildings throughout the area, and the proposed scheme will add to this variety. The proposed dwellings utilise front-facing gables, contrasting brickwork, large vertical windows and both full and juliet balconies to enliven the elevations fronting Banks Road and this will help to ensure that they add positively to the character and appearance of the street scene.

The footprint of the 13 proposed dwellings fronting the site takes up less than the existing buildings, and even when including the proposed Plot 14 to the rear of the site, there would still likely be no increase in building footprint. There will, however, be a marginal increase in floorspace due to most of the dwellings being three-storey, compared to the two-storey Ashton Court. However, combined with the reduction in the number of units on the site, the reduction in built footprint will help to ensure that the proposal does not constitute an overdevelopment of the site. Each dwelling has a private amenity area and although not substantial in size, this is considered to be acceptable given the constraints of the site.

In terms of Ashton Drive, whilst the proposed dwellings will be taller than the existing buildings of Ashton Court, they will also be set further away from the properties of Ashton Drive and this will lessen the impact of the increased height. Although the proposed dwellings will be visible on Ashton Drive, given that they are close to (and face) Banks Road, which is a Key Town Centre, it is not considered that taller buildings in this location would have a particularly negative impact upon the character of Ashton Drive. The proposed dwellings on the corners also address both Banks Road and Ashton Drive to prevent presenting a blank elevation to either street scene.

The rear windows of all new properties will be a minimum distance of 14 metres from the rear boundary of the site, which is a shared boundary with the rear gardens of 3 and 4 Ashton Drive. This distance is considered sufficient to ensure that there will be no unacceptable levels of overlooking. The existing buildings are within 6/7 metres of this boundary so, although taller, the proposed development may result in an improvement for neighbouring properties.

The two proposed dwellings either side of the junction (Plots 6 - 9) will have large balcony areas to the rear. These properties (and balconies) will face the side elevations of 3 and 4 Ashton Drive and their open front garden areas, and it is therefore considered that the proposed balconies are unlikely to result in an unacceptable loss of privacy to the private amenity areas of these neighbouring properties.

In assessing the appeal, the Planning Inspector came to the conclusion that the proposed development would not have an adverse impact upon the amenities of neighbouring properties. The Inspector stated "therefore, I consider that the proposed development would not significantly affect the living conditions of the occupiers of Nos 3 and 4 Ashton Drive with particular regard to outlook and privacy."

#### Plot 14

Plot 14 is a proposed two-storey dwelling house located in the southern part of the application site and will be located to the rear of 4 - 8 Ashton Drive. The blank, side elevation of the proposed dwelling will be a distance of 14 metres from the main rear elevation of these properties, which complies with the required separation distances. 6 Ashton Drive does have a single-storey extension which projects closer to the proposed dwelling, but this will not be directly opposite the new dwelling and does not appear to be an original structure and therefore any impact upon this is not considered sufficient to warrant refusal of the application. To the other side of the proposed dwelling is a number of single-storey garages and a large area of hardstanding, and the proposal will therefore not have a negative impact here.

The first-floor rear windows of Plot 14 will be less than 8 metres away from the rear boundary, which is shared with the private garden area of 10 Ashton Drive. These proposed windows serve bedrooms which also have windows on the front elevation, and therefore a condition attached to obscurely glaze them in order to protect the amenities of the neighbouring property will not impact upon the future use of the proposed rooms.

When assessing this aspect of the proposal, the Planning Inspector stated "consequently, I consider that the proposed development would provide adequate living conditions for the future occupiers of plot 14 with particular regard to outlook and security. Thus it would not be contrary to Policy HS4 of the Wirral Unitary Development Plan which, amongst other things, requires that new housing development creates a secure environment and has adequate space for each dwelling."

#### **SEPARATION DISTANCES**

Almost all separation distances are complied with. There are some residential properties above commercial units across Banks Road which will be within approximately 20m of the proposed dwellings. However, whilst this is marginally less than the usual requirement, these properties are flats above commercial units within a Key Town Centre and this, together with this distance being consistent with many along Banks Road, means that this very minor discrepancy is considered to be acceptable.

#### **HIGHWAY/TRAFFIC IMPLICATIONS**

The scheme proposes one off-street parking space per unit, which is an improvement on the current

layout where there appears to be no dedicated off-street parking spaces for 22 units.

### **ENVIRONMENTAL/SUSTAINABILITY ISSUES**

There are no Environmental/Sustainability issues relating to these proposals.

### **HEALTH ISSUES**

There are no health implications relating to this application.

### **CONCLUSION**

In conclusion, it is considered that the Planning Inspectors report has established that the proposed development will not harm the amenities of neighbouring properties, and will also provide acceptable living conditions for future occupiers. It is also considered that the proposal will not harm the character of the area and the proposal therefore complies with Wirral Unitary Development Plan Policy HS4 and GR5 and the National Planning Policy Framework.

### **Summary of Decision:**

Having regards to the individual merits of this application the decision to grant Planning Permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposed development will not have an unacceptable adverse impact upon the character of the area or the amenities of neighbouring properties, and the proposal therefore complies with the Wirral Unitary Development Plan Policies HS4, GR5, TR9 and the National Planning Policy Framework.

**Recommended Decision:**                      **Approve subject to Section 106 Agreement**

### **Recommended Conditions and Reasons:**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

**Reason:** To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 9th October 2017 and listed as follows: EX03 Revision C; GA10 Revision A; GA11 Revision B; GA12 Revision B; GA13 Revision A; GA14 Revision A; GA21; GA22; GA23

**Reason:** For the avoidance of doubt and to define the permission.

3. Before any construction commences, samples of the materials to be used in the external construction of this development shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the construction of the development.

**Reason:** To ensure a satisfactory appearance to the development in the interests of visual amenity and to comply with Policy HS4 of the Wirral Unitary Development Plan.

4. The development hereby permitted by this planning permission shall be carried out in accordance with the principles and details specified in the following approved submissions - Sustainable Surface Water Drainage Strategy (Nov 2017/ Ref: 13375-5025-DIA-02/ Rev 02 / Met Engineers Ltd).

**Reason:** To ensure a satisfactory sustainable surface water drainage system is provided to serve the site in accordance with UDP Policy WA2, Paragraph 103 of the National Planning Policy Framework, HCWS 161 House of Commons Written Statement on Sustainable Drainage Systems, and Policy CS35 in the Core Strategy Local Plan Proposed Submission Draft.

5. No development shall commence until the confirmed **full and final design** for a surface water sustainable drainage system to serve the site and method of implementation have been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The approved scheme shall be implemented in accordance with the approved details and timetable. Thereafter the surface water sustainable drainage system shall be managed and maintained in accordance with the approved maintenance and inspection schedule.

**Reason:** To ensure a satisfactory sustainable surface water drainage system is provided to serve the site in accordance with UDP Policy WA2, Paragraph 103 of the National Planning Policy Framework, HCWS 161 House of Commons Written Statement on Sustainable Drainage Systems, and Policy CS35 in the Core Strategy Local Plan Proposed Submission Draft.

6. No development shall commence until details of an appropriate management and maintenance plan for the sustainable drainage system for the lifetime of the development have been submitted to the Local Planning Authority, in conjunction with the Lead Local Flood Authority, via the means of an appropriate legal agreement.

The plan shall be implemented in accordance with the approved details prior to first occupation of any of the approved dwellings, or completion of the development, whichever is the sooner. Thereafter the sustainable drainage system shall be managed and maintained in accordance with the approved details.

**Reason:** To ensure satisfactory management and maintenance of the approved surface water drainage facilities is provided for the site for the lifetime of the development in accordance with UDP Policy WA2, National Planning Policy Framework Paragraph 103 and Policy CS35 in the Core Strategy Local Plan Proposed Submission Draft.

7. The hard and soft landscaping scheme hereby approved shall be carried out prior to the occupation of any part of the development or in accordance with a timetable to be agreed in writing with the Local Planning Authority. Any trees or plants that within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective shall be replaced with others of a species, size and number as originally approved in the first available planting season unless the Local Planning Authority gives its written consent to any variation.

**Reason:** In the interests of visual amenity and to comply with Policy GR5 of the Wirral Unitary Development Plan.

8. Prior to commencement of development, full details of all proposed boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to first occupation.

**Reason:** For the avoidance of doubt

9. The first-floor rear windows in the dwelling shown as Plot 14 shall be obscurely glazed and non-opening up to a height of 1.7m above finished floor level and retained as such thereafter

**Reason:** To protect the amenities of the neighbouring property

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any subsequent Order or statutory provision revoking or re-enacting the provisions of that Order), no garages, outbuildings or other extensions to a dwelling shall be erected unless expressly authorised.

**Reason:** In order to protect the character of the area/residential amenities of nearby occupants and to accord with Policy HS4 of the Wirral Unitary Development Plan.

11. NO DEVELOPMENT SHALL TAKE PLACE until a Site Waste Management Plan, confirming how demolition and construction waste will be recovered and re-used on the site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To ensure that the proposed development would include the re-use of limited resources, and to ensure that the amount of waste for landfill is reduced to accord with Policy WM8 of the Waste Local Plan.

12. PRIOR TO THE FIRST OCCUPATION OF THE DWELLINGS arrangements for the storage and disposal of refuse, and vehicle access thereto, shall be made within the curtilage of the site, in accordance with details to be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented in full unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To ensure a satisfactory appearance and adequate standards of hygiene and refuse collection, having regard to Policy WM9 of the Waste Local Plan.

**Further Notes for Committee:**

**Last Comments By:** 09/11/2017 09:35:08

**Expiry Date:** 08/01/2018