

Planning Committee

17 April 2019

Reference:
APP/18/01625

Area Team:
**Development
Management Team**

Case Officer:
Mr N Williams

Ward:
Hoylake and Meols

Location: Ashton Court, Banks Road, West Kirby, CH48 0RJ
Proposal: Demolition of existing buildings and erection of 14 No. new build residential properties

Applicant: Hilbre Homes
Agent : Watson Batty Architects Ltd

Qualifying Petition: Yes
Petition Number: **Number of signatures:**
1 545
2 54

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
Decision Type: Refuse - Appeal Dismissed, 23/05/2017 (Ref: 3168876)

Location: Ashton Court, BANKS ROAD, WEST KIRBY, Wirral CH48 0RJ
Application Type: Full Planning Permission
Proposal: Demolition of existing buildings and erection of 14 No. new build residential properties
Application No: APP/17/01222
Decision Date: 19/01/2018
Decision Type: Refuse - Appeal Dismissed, 25/10/2018 (Ref: 3205371)

Summary Of Representations and Consultations Received**1.0 WARD MEMBER COMMENTS**

1.1 No comments received.

2.0 SUMMARY OF REPRESENTATIONSREPRESENTATIONS

Having regard to the Council's Guidance for Publicity on Planning Applications, 59 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 545 and 54 signatures, together with 66 individual objections. The objections can be summarised as:

1. Application is the same as previous refusals;
2. Overlooking and loss of privacy;
3. Parking and traffic issues;
4. Overbearing impact;
5. Development will spoil the character of the area;
6. Loss of light;
7. Overdevelopment of the site;
8. Increase in noise;
9. Loss of gardens and green space;
10. Loss of view;
11. Existing buildings should be retained;
12. Proposed buildings are unsightly;
13. Loss of social housing

2 comments were received in support of the principle of the proposal.

CONSULTATIONS

Environmental Health - No objection

Highways - No objection

Lead Local Flood Authority - No objection subject to conditions

Housing Strategy - No objection

3.1 Site and Surroundings

3.1.1 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 was 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.

3.1.2 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.

3.2 Proposed Development

3.2.1 The proposed development is for the demolition of the existing buildings at Ashton Court and the erection of 14 new dwellings.

3.3 Development Plan

3.3.1 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.

3.4 Other Material Planning Considerations

3.4.1 The National Planning Policy Framework (NPPF) sets a presumption in favour of sustainable development which means approving development that accords with the development plan without delay. Good design is specifically identified as a key aspect of sustainable development and decisions should ensure development is visually attractive with a high standard of amenity for existing and future users. .

3.5 Assessment

3.5.1 The main issues pertinent in the assessment of the proposal are;

- Principle of development;
- Planning History of Site;
- Current Proposal; and
- Highways.

3.6 Principle of Development:

3.6.1 The site consists of former residential buildings within a Primarily Residential Area and the principle of developing the site for residential purposes is therefore considered to be acceptable.

3.7 Planning History of Site:

3.7.1 This application is the third submission of a similar scheme. The previous two applications (APP/16/00823 and APP/17/01222) were both refused and dismissed on appeal.

3.7.2 The first planning application, APP/16/00823, was refused by Planning Committee in November 2016 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

- 3.7.3 A subsequent appeal was dismissed by the Planning Inspectorate in May 2017. However, in consideration of the reasons for refusal, the Inspector considered that the scale and design of the proposed development was acceptable, and the appeal was dismissed on the grounds that the appellant had not provided a way to satisfactorily secure the affordable housing provision (which was to be 20% on-site provision). Whilst a Section 106 Agreement would have been signed had the original application been approved by the Council, the Inspector was of the opinion that an executed Agreement should have been submitted with the subsequent appeal. As it wasn't, the appeal was dismissed.
- 3.7.4 The applicant subsequently submitted a new application (APP/17/01222) which was identical to the original application, besides the affordable housing provision. The applicant claimed 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 was considered that the site had not been made vacant for the sole purposes of redevelopment. Affordable housing would therefore only be required for any increase in floorspace in comparison to the existing buildings.
- 3.7.5 In this instance (and in the case for this current application), 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 was proposed that a commuted sum of £9,291 would be provided towards affordable housing. This figure was considered to be acceptable and this commuted sum was to be secured through a Section 106 Agreement.
- 3.7.6 However, the application was refused by Planning Committee on 18th January 2018 for the following reason:
- In the absence of an Executed Section 106 agreement, committee is not satisfied that the proposed development would make adequate provision for affordable housing, in accordance with Policy HSG2 and HS6 of the Wirral Unitary Development Plan, nor the reasons stated by the Planning Inspector, which Committee considers to be material consideration.
- 3.7.7 The subsequent appeal was also dismissed. On this occasion, the Planning Inspector found that whilst the Unilateral Undertaking (legal agreement) submitted by the applicant did require them to pay a commuted sum of £9,291, it did not actually require the commuted sum to be spent on the provision of affordable housing. Given that this would not provide certainty that the commuted sum would be spent on affordable housing, the appeal was dismissed.
- 3.8 Current Proposal:
- 3.8.1 The current proposal is an identical scheme to the previous two applications. The design and scale of the proposed buildings and their impact on the residential amenity of surrounding properties have been considered previously. Although the original application was refused by Planning Committee on these grounds, the Planning Inspector found that these aspects of the proposal were acceptable and complied with relevant policy guidelines. In any case, the assessment of these issues follows below.

- 3.8.2 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.
- 3.8.3 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.
- 3.8.4 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.
- 3.8.5 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 significant 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.
- 3.8.6 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.
- 3.8.7 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.
- 3.8.8 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.
- 3.8.9 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."

- 3.8.10 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.
- 3.8.11 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.
- 3.8.12 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."
- 3.8.13 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.
- 3.8.14 NPPF paragraph 63 indicates that where vacant buildings have not been abandoned and are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.
The applicant has claimed the Vacant Building Credit and proposes a commuted sum of £9,291 towards affordable housing provision. This figure is derived from the 20% affordable housing requirement set out in Policy CS22 in the emerging Local Plan. Based on the increase in floorspace (as set out at Para 3.7.5), the affordable housing requirement should be 7% of what would otherwise have been required. This is therefore 7% of the 20% requirement. A commuted sum of approximately £132,000 had the Vacant Building Credit not been applied.
- 3.8.15 A draft Section 106 Agreement has been negotiated with the applicant and is ready to be signed formally should Committee be minded to approve the application. This will ensure that the commuted sum of £9,291 will be paid prior to the commencement of development for the provision of affordable housing.
- 3.9 Highways:
- 3.9.1 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.

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 TR12 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 11th December 2018 and listed as follows: EX01; EX03 Revision C; GA22, R/1876/1 and revised plans received on 28th March 2019 and listed as: GA10 Revision A; GA11 Revision B; GA12 Revision B; GA13 Revision A; GA14 Revision A

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

3. Before any construction above ground level 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 hard and soft landscaping scheme hereby approved (Drawing R/1876/1) 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.

5. Prior to first occupation, 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

6. 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

7. 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.

8. 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.

9. No development shall commence until the final detailed sustainable drainage design, for the management and disposal of surface water from the site based on the principles and details identified in the following documents has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Lead Local Flood Authority:

- Sustainable Surface Water Drainage Strategy (Nov 2017/ Ref: 13375-5025-DIA-02/ Rev 02 / Met Engineers Ltd).

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with UDP Policy WA2 and Policy WA5, Paragraph 165 of the National Planning Policy Framework, House of Commons Written Statement 161 for Sustainable Drainage Systems, and Policy CS35 in the Core Strategy Local Plan Proposed Submission Draft.

10. The development hereby permitted by this planning permission, including all components of the approved sustainable drainage system, shall be carried out in accordance with the approved final Sustainable Drainage Strategy, including any phasing embodied within, and maintained in perpetuity in accordance with an agreed Operation and Maintenance Plan, to be submitted for each development phase, approved by the Local Planning Authority, in consultation with the Lead Local Flood Authority.

The approved drainage scheme shall be **fully constructed prior to occupation** in accordance with the approved details, phasing and timetable embodied within the approved final Sustainable Drainage Strategy, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority in consultation with the Lead Local Flood Authority. 'As built' drainage design/layout drawings and a final Operation and Maintenance Plan, confirming asset details and maintenance arrangements, shall be submitted to the Lead Local Flood Authority, in accordance with any approved phasing, prior to occupation.

Reason: To ensure satisfactory sustainable drainage facilities are provided to serve the site in accordance with UDP Policy WA2 and Policy WA5, Paragraph 165 of the National Planning Policy Framework, House of Commons Written Statement 161 for Sustainable Drainage Systems, and Policy CS35 in the Core Strategy Local Plan Proposed Submission Draft.

11. PRIOR TO FIRST OCCUPATION OR USE OF THE DEVELOPMENT, arrangements for the storage and disposal of refuse including recycling facilities, and vehicle access thereto, shall be made within the curtilage of the site, in accordance with details previous submitted to and agreed in writing by the Local Planning Authority, prior to the first occupation of the building.

Reason: To ensure a satisfactory appearance and adequate standards of hygiene and refuse collection, having regard to Waste Local Plan Policy EM9.

Further Notes for Committee:

1. Consent under the Highways Act is required for the construction of a new vehicle access or the amendment/removal of an existing vehicular access. Proposed vehicle access to be constructed in accordance with LPA commercial concrete crossing specifications. Such works are undertaken at the developer's expense, including the relocation/replacement and/or removal of street furniture and vegetation as necessary. Submission of a S50 Highway Opening Notice is required prior to commencement of any works on the adopted highway. Please contact the Council Highway Management team area manager via

www.wirral.gov.uk prior to the commencement of the works for the approval of the proposed details.

A pre-site inspection is required prior to the development works commencing with the LA- any damage to the existing highway that occurs as a result of the development would require reinstatement, at the developers expense, to the LA specifications and written approval. For further details contact Highway Management, area manager via www.wirral.gov.uk

2. In relation to Condition 9, Final Detailed Sustainable Drainage Design shall comply with DEFRA's technical standards for sustainable drainage systems and the SuDS Manual (C753) and include:

- Justification of final design
- Infiltration test results, trial pit records and completed table B.6 Infiltration assessment checklist from The SuDS Manual C753
- SuDS serving more than one property must be situated in communal areas, accessible legally and physically by all those the system serves.
- Drawings to include:
 - Final layout of roads and properties including plot numbers, finished floor levels and boundaries with exceedance routing clearly shown
 - Final layout of soakaways; sewers; outfalls; SuDS; flow controls and overland flow paths (designed for exceedance)
 - Invert levels (to OS datum), cover levels, manhole and pipe sizes; pipe gradients; SuDS; materials; emergency overflows and annotation that correlates to the hydraulic calculations
- Hydraulic modelling for final drainage strategy to include:
 - System performance for the following return periods; 1, 30, 100 plus 40% climate change allowance
 - System performance demonstrating adequate storage for the 1 in 100 year critical rainfall event (plus 40% climate change allowance and correct factor of safety)
 - Design criteria summary, Full network details table, Contributing area summary, Control/storage structure details, Results summary print outs
 - Volumetric runoff co-efficient (Cv) should be set to 100%
 - Urban creep allowance of 10% should be included
- Timetable demonstrating completed SuDS construction prior to occupation
- Provisional Operation and Maintenance Plan

Last Comments By: 29/01/2019
Expiry Date: 12/03/2019