



**REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT AND
REGULATORY SERVICES MANAGER**

TO: SPECIAL BUDGET POLICY AND RESOURCES COMMITTEE

DATE: 11th FEBRUARY, 2021

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PLANNING APPLICATIONS

PURPOSE OF REPORT

To determine the attached planning application.

REPORT TO POLICY AND RESOURCES COMMITTEE – 11th February 2021

Application Ref: 20/0707/FUL

Proposal: Full: Erection of three dwellinghouses

At: Land to south west of White Holme, Barrowford

On behalf of: Pinnacle View Homes

Date Registered: 20/10/2020

Expiry Date: 15/12/2020

Case Officer: Laura Barnes

This report has been referred from the Barrowford and Western Parishes Committee as Members were minded to refuse the application contrary to the officer's recommendation. The reason for refusing was due to the developer not complying with the previous scheme. A refusal on that basis would be highly likely to lead to costs being awarded as it is not a planning ground.

Site Description and Proposal

The application site is part of the land at 317 Gisburn Road, Barrowford which was granted outline consent for residential development in 2002.

Since that time a number of applications have been received for housing development (see history).

This application proposes three dwellings on land that has a number of protected trees on it. These are mainly on the boundary of the land.

The site is accessed from the estate road to the north through an estate of modern houses. To the west there are fields and to the east an unadopted road serving residential houses.

There are trees along the southern boundary. These consist of coniferous trees for the eastern section adjacent to the drive and garage of number 2 Ribblesdale Place. These turn into deciduous trees beyond the conifers.

The dwelling to the south of the site is a bungalow. It is set back from Ribblesdale Place and there is a driveway separating it from the boundary of the application site. There are openings in the elevation facing the site. Beyond the driveway there is a garage that extends beyond the rear elevation of the dwelling on the boundary between the two plots.

Beyond number 2 Ribblesdale Place lies 4 Ribblesdale Place. The boundary of number 4 lies 27m from the application site.

Relevant Planning History

There are a number of planning applications on this and the adjacent site. The relevant ones are listed below:

13/10/0021P – Erect three detached dwellinghouse with garages Refused but subsequently allowed at appeal 22nd March, 2010.

13/10/0021C1 – Approval of Details Reserved by Condition: Discharge of Conditions 3 (Fencing), 4 (Drainage), 5 (Tree protection), 6 (Tree protection) and 7 (Tree planting) of Planning Permission 13/10/0021P.

Discharge conditions 3, 4, 5, 6 and 7, subject to implementation 11th October 2013.

13/16/0093P – Full: Erection of 3 detached dwellings and garages and form new access. – Approved 13th May 2016.

20/0182/VAR – Variation of Condition: Vary Condition 7 (Tree Planting Plan) of Planning Permission 13/16/0093P – Approved 20th July 2020.

20/0298/CND – Approval of Details Reserved by Condition: Discharge conditions 5 (Tree protection fencing) and 6 (Tree protection hand digging) of Planning Permission 13/16/0093P – Pending Consideration.

20/0400/VAR – Full: Variation of Condition: Vary Conditions 2 (Plans) of Planning Permission 13/16/0093P to amend the design of plot 7 – Withdrawn 18th December 2020.

Consultee Response

LCC Highways

Initial comments:

Having considered the information submitted, the Highway Development Support Section does not have any objections regarding the proposed amendments to development at the above location. The following comments should be noted.

The internal dimensions of all the proposed garages are less than 6 x 6m and can therefore only be counted as one parking space. The driveways for Plots 7 and 9 are of an adequate size to provide an additional two spaces per dwelling, giving a total of three off-road parking spaces. However, Plot 10's driveway would only provide one additional space, giving a total of two off-road spaces.

Final comments:

Following the submission of an amended plan indicating an additional parking space at plot 10, the Highways Authority are content that a sufficient amount of parking is available.

Barrowford Parish Council

No Objection: After over a decade of blight to some residents of Ribblesdale Place the Parish Council is keen to see this development completed within the lifespan of any granted permission.

United Utilities

Initial comment:

In accordance with the National Planning Policy Framework (NPPF) and the National

Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

Following our review of the submitted Drainage Strategy (Ref: 20-109 D01 Rev C, dated 05.10.20) we can confirm the proposals are unacceptable in principle to United Utilities.

We request the following drainage conditions are attached to any subsequent approval to reflect the above approach detailed above:

Condition 1 – Surface water

No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

(i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;

(ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and

(iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

Condition 2 – Foul water

Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

Final comment:

Following the submission of further details, United Utilities are satisfied that the applicant has followed the national drainage hierarchy.

Public Response

Seven letters have been received from members of the public, following notifications being posted to the nearest neighbours.

The letter of support states:

- The site has been there for some time and is now finally starting to feel complete
- The dwellings are in keeping with others in the area
- A lot of thought has gone into the protection of the existing trees and making space for them by removing existing shrubs

The six letters of objection raise the following issues:

- Concern about neighbouring amenity particularly in relation to the proximity of the proposed dwellings to No. 2 Ribblesdale Place, causing overbearing impact and loss of privacy
- Site layout is cramped
- Works being undertaken not in accordance with approved plans
- Amount of garden amenity space is limited
- Works have been unlawfully undertaken to TPO trees
- Drainage issues in relation to an easement with No. 2 Ribblesdale Place
- Pre-commencement conditions not discharged
- Question surrounding validity of permission, given the foundations have not been built in accordance with approved plans
- Eaves height and garage height on Plot 7 increased
- Existing trees are an important wildlife habitat and branches from these have been removed
- Bat boxes have been removed by the developer

Officer Comments

Policy

Pendle Local Plan Part 1: Core Strategy (LPP1)

Policy ENV1 (Protecting and Enhancing Our Natural and Historic Environments) requires developments to make a positive contribution to the protection, enhancement, conservation and interpretation of our natural and historic environments.

Policy ENV2 states that all new development should seek to deliver the highest possible standards of design, in form and sustainability, and be designed to meet future demands whilst enhancing and conserving heritage assets.

Policy LIV5 requires all new housing to be designed and built in a sustainable way. New development should make the most efficient use of land and built at a density appropriate to their location taking account of townscape and landscape character. Provision for open space and/or green infrastructure should be made in all new housing developments.

Replacement Pendle Local Plan policies are relevant to this proposal:-

Policy 16 'Landscaping in New Development' requires all development proposals which involve new build to include a scheme of landscaping sympathetic to the site's character and vicinity. This is addressed under the Landscaping and TPO section below.

Policy 31 'Parking' supports new developments which are in line with the Maximum Car and Cycle Parking Standards. This is addressed under the Highways Section below.

Principle of the Development

The principle of housing development has been established on site over a number of applications and a planning appeal. The development of 3 houses was first approved on site under the appeal referred to above.

The appeal is a useful document in considering the scheme. Although each application must be considered on its own planning merits the appeal did consider many of the pertinent points and is

useful in dealing with the material considerations for this application. Some of the differences between the approved and extant scheme to the current one include the conversion of the conservatory at plot 7 to form a sunroom, moving the garage and rotating the plot. The approved garage to plot 7 was within the root protection areas of trees 2.3 and 2.5. Plot 9 and the garage have been moved out of root protection areas. Plot 10 has been moved closer to the boundary, to accommodate the repositioning of plot 9 and the conservatory to plot 10 has been moved to the east elevation.

Impact upon amenity

Plot 7

The orientation of the dwelling has altered to that of the extant scheme in a clockwise direction. The building would also be pulled marginally further away from the boundary than the approved scheme.

The amendment of the conservatory to a sun room with a solid roof has no additional impact on amenity of privacy.

The development of this plot will not have any direct privacy impact on the dwelling at number 2 Ribblesdale. It will face the rear garden but that relationship is an acceptable one. There is no material difference to the relationship to the scheme approved on appeal which was also acceptable.

Concerns have been raised that the development affects the amenity of number 4 Ribblesdale Place. That property is beyond the garden of Number 2 beyond 27m. It faces a garden. Acceptable privacy distances between facing windows is 21m in accordance with our residential design guide. Facing a garden beyond 27m presents no impact on residential amenity and is not a ground for objecting to the scheme.

Plot 9

Trees 1.12 and 1.13 were not indicated on the original survey and the garage was sited on these trees. The house was also sited within the root protection area of tree 1.11.

As a result, Plot 9 was moved outside of the root protection zone of 1.11 and the garage moved so trees 1.12 and 1.13 could be retained and protected.

In relation to neighbouring amenity, the closest dwellings are the proposed Plot 10 and existing dwellings on Ribblesdale Place (Nos. 5, 7 and 9). There are three proposed side facing windows, one to each floor at Plot 9, which face towards Plot 10. However, two of these windows are to serve bathrooms with the other serving an entrance hall and could be conditioned to be obscure glazed.

Plot 9 does not present any adverse impacts on residential amenity to other dwellings.

Plot 10

This plot has the closest relationship with number 2 Ribblesdale Place.

The distance from the house to the boundary is 6.4m.

Plot 10 is adjacent to a neighbouring bungalow and the impact on the amenity and privacy of the bungalow must be considered. The closest window of the proposed house at ground floor level is the kitchen window. That would face the neighbouring property. The fence that is in place would prevent any loss of privacy. The closest window at first floor level is a dressing-room window.

Windows at the first floor have the greatest potential to result in loss of privacy. The elevation is 12m from the elevation of the bungalow adjacent. The bungalow has had an additional window inserted into the ground floor since the three dwellings were originally approved at appeal. The relationship however to that of the extant scheme at first floor is not materially different. The tree screening that is in place and which will remain also provides a significant element of natural screening. The location of the unobscured new window in Number 2 also reduces the possibility of overlooking. The combination of these factors is that the scheme would not result in a loss of privacy to the occupants of number 2 Ribblesdale Place.

In relation to the second floor dormer windows, these are set back from the eaves such that this would reduce significantly the possibility of any direct overlooking between the proposed development and No. 2 Ribblesdale Place. That combined with the height and angle would not lead to a situation where privacy would be lost.

In terms of residential amenity it is important to recognise that in coming to a decision in 2010, the appeal Inspector (Appeal Reference: APP/E2340/A/10/2126508) did not consider that there was a residential amenity issue which warranted the application of conditions when they allowed the appeal. It stated at paragraph 5 that “the fence, trees and other vegetation provide a clear visual separation of the site from other dwellings in Ribblesdale Place”. Had the Inspector felt there was a neighbouring amenity issue caused by the proposed development, he could have included a condition which ensured that the trees remained in perpetuity. Although the schemes were different this indicates that the relationship with the neighbouring property was acceptable without the trees that are in situ being required to be retained.

As such, the position in relation to neighbouring amenity accords with Policy ENV2 of the Local Plan Part 1: Core Strategy and Design Principles SPD.

The dwelling on plot 10 is the only one with a potential to be overbearing on number 2 Ribblesdale Place. It lies 14m from the side elevation of number 2 which has one unobscured window in it. There are large mature trees and a fence in-between. That relationship is an acceptable one and will not cause any overbearing impact on the setting bungalow.

Design

The design and materials of the proposed dwellinghouses are similar to the other seven dwellings already approved and completed on the site and therefore are acceptable.

The proposed dwellinghouses would be of a similar appearance to the existing buildings on the remainder of the site and would be constructed of the same materials. They sit acceptably in the landscape and are largely screening by the existing vegetation.

Concerns have been expressed that the development is cramped and lacks external amenity space. The layout provides for adequate separation, no overlooking between properties and has available external parking. It is not cramped. There are no external garden standards in either local or national

planning policy that would lead to a conclusion that the development does not have adequate external spaces.

The development is acceptable in terms of design.

Drainage

The application seeks to have an attenuation tank, which relates to surface water drainage within the site boundary. Following discussions this has been moved from within the Root Protection Area of one of the existing trees.

United Utilities reviewed the proposals and initially raised an objection as the development does not follow the national hierarchy for effluent disposal. Following the submission of further details, United Utilities confirmed that they would accept surface and foul being drained to the combined sewer. They are satisfied that the national drainage hierarchy has been followed. The Council understands that the drainage has been connected, in accordance with the plans agreed with United Utilities. It is recommended that a condition is added to promote sustainable drainage.

Trees and Landscaping

Policy ENV1 of the Local Plan Part 1: Core Strategy seeks that development makes a positive contribution to the protection, enhancement, conservation and interpretation of our natural and historic environments. It states that the impact of new development on the natural environment should be kept to a minimum. A number of mature trees close to the western, southern and eastern boundaries of the site are included in the Ribblesdale Place Tree Preservation Order No 2, 2003 (TPO). It is acknowledged by the Inspector of the fall-back scheme and echoed by the Council that the trees are an important element in the landscape and contribute significantly to the character and appearance of the area. The applicant has submitted an arboricultural impact assessment, tree protection plan and planting plan. These indicate that holly, hornbeam hedge, small leaved lime Standard sized, and a Scots pine Standard sized shall be planted.

The arboricultural report also sets out that some trees are recommended for removal, as follows:

- The horse chestnuts on the eastern boundary have suffered from bleeding canker (see <https://www.forestresearch.gov.uk/tools-and-resources/pest-and-disease-resources/bleedingcanker-of-horse-chestnut/>) and are recommended for removal and replacement
- The mature beech trees to the south east and south west could be lightly pruned to provide more clearance from the proposed dwellings. Small diameter pruning to live side branches can be undertaken on a cyclical basis without detriment to their health or longevity
- The cypress trees to the south eastern boundary are in good health, however they have reached a size where removal and replacement is considered the best option for the following reasons –
 - They suit as a boundary feature for a large garden but if retained would dominate the relatively small garden of the approved layout
 - They would cast year-round shade and be under pressure for pruning/removal due to this and apprehension in high winds from the new occupier
 - Cypress of this type are prone to structural branch failures (some seen to north already) in maturity
 - As such and in agreement with the LPA removal and replacement is proposed

- Maturing Ash saplings and early mature trees on the southern boundary are recommended for removal and replacement as they are unlikely to reach maturity due to Ash Dieback Disease (<https://www.forestresearch.gov.uk/tools-and-resources/pest-and-disease-resources/ashdieback-hymenoscyphus-fraxineus/>) already present in the local area.
- Individual poor specimens that would not be appropriate in a new garden have also been recommended for removal and replacement
- Some poorly structured trees have been recommended for formative pruning

It is important that the proposed development does not impact upon the root protection areas of the protected trees, as such it is recommended that conditions are placed upon any grant of planning permission to ensure that development is outside the root protection areas and the trees are sufficiently protected during the construction process. In addition, any excavation required within 4m of the trees which are to be retained, should be hand dug. Again, this can be secured by a suitably worded planning condition. Subject to conditions, the proposal accords with Policy ENV1 of the Local Plan Part 1: Core Strategy.

Matters raised about unauthorised work to trees are not matters for consideration under a planning application and are one for consideration of whether or not to take any action for breach of a TPO as appropriate.

Highways

LCC Highways have not raised any objection to this proposal. The use of the existing access is acceptable.

Car parking spaces are proposed for each plot, however LCC Highways have raised concerns that the garages are not sufficient to be counted as two parking spaces. There are two external spaces available for plots 7 and 9. The layout shown on the plans does not have enough space for two external spaces on plot 10 but there is sufficient space for that plot to have an additional external space provided.

Following proactive discussions with the case officer, the applicant has submitted an amended plan including an additional parking space at plot 10, which has been reviewed by the Highways Authority. They are content with this additional information, which removes their initial concerns.

Reason for Decision

Section 38 of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development is acceptable in terms of design, amenity and highway safety. The development is therefore compliant with the Development Plan. There is a positive presumption in favour of approving the development and there are no material reasons to object to the application.

RECOMMENDATION: Delegate grant consent

Subject to satisfactory surface water drainage details

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

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

- Site Location Plan, prepared by Planet Architecture, Ref: A1/09/2020/1/001
- Plot 7 Proposed Floor and Elevation Plans, prepared by Planet Architecture, Ref: A1/09/2020/1/003
- Plot 9 Proposed Floor and Elevation Plans, prepared by Planet Architecture, Ref: A1/09/2020/1/004
- Plot 10 Proposed Floor and Elevation Plans, prepared by Planet Architecture, Ref: A1/09/2020/1/005
- Proposed Site Plan, prepared by Planet Architecture, Ref: A1/09/2020/1/002
- Arboricultural Impact Assessment, prepared by tree plan, dated September 2020
- Tree Protection Plan, prepared by tree plan, dated September 2020
- Tree Planting Plan, prepared by tree plan, dated September 2020
- Proposed Drainage Plan, prepared by Holdgate Consulting Ltd, Ref: 20-109 D01 Rev E

Reason: For the avoidance of doubt and in the interests of proper planning.

3. All materials to be used for the proposed development shall be as stated on the application form and approved drawings and shall not be varied without the prior written permission of the Local Planning Authority.

Reason: These materials are appropriate to the locality and in order to allow the Local Planning Authority to control the external appearance of the development.

4. Notwithstanding any indication on the approved plans, the side elevation windows (serving bathrooms and a hallway) at plot 10 of the development hereby permitted shall at all times be fitted with obscure glazing to at least level 4 or above unless otherwise agreed in writing by the Local Planning Authority. Any replacement glazing shall be of an equal degree or above. The window shall be hung in such a way as to prevent the effect of the obscure glazing being negated by way of opening.

Reason: To ensure an adequate level of privacy to adjacent residential properties.

5. Notwithstanding the provisions of Article 3 and parts 1 and 2 of the second Schedule of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development as specified in Classes A, B, C, D, E, F, G and H of Part 1 and Classes A, B and C of Part 2 of Schedule 2 of that Order shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Reason: To enable the Local Planning Authority to control any future development on the site in order to safeguard the character and amenity of the area and impacts on neighbouring properties.

6. No dwelling shall be occupied unless and until the surface water drainage scheme which has been agreed with United Utilities and the Local Planning Authority has been fully installed and completed in accordance with the approved details. The development hereby permitted shall be carried out only in accordance with the approved drainage scheme and shall be maintained hereafter.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution

7. Prior to the first occupation of any dwelling a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be submitted at a scale of 1:200 and shall include the following:
 - a. the exact location and species of all existing trees and other planting to be retained;
 - b. all proposals for new planting and turfing indicating the location, arrangement, species, sizes, specifications, numbers and planting densities;
 - d. all proposed hard landscape elements and pavings, including layout, materials and colours;
 - e. the proposed arrangements and specifications for initial establishment maintenance and long-term maintenance of all planted and/or turfed areas.

The approved scheme shall be implemented in its entirety in the first planting season following the substantial completion of the development. Any tree or other planting that is lost, felled, removed, uprooted, dead, dying or diseased, or is substantially damaged within a period of five years thereafter shall be replaced with a specimen of similar species and size, during the first available planting season following the date of loss or damage.

Reason: To ensure that the development is adequately landscaped so as to integrate with its surroundings.

8. All works involving excavation of soil, including foundations and the laying of services, within 4 metres of the trees to be retained on the site, shall be dug by hand and in accordance with a scheme of works which has been submitted to and approved by the Local Planning Authority prior to the commencement of works.

Reason: To safeguard existing trees to be retained.

9. No further ground clearance, demolition or construction work shall take place until protective fencing to BS 5837 at least 1.25m high, securely mounted on timber posts, and has been erected around each tree/tree group or hedge to be preserved on the site or on immediately adjoining land. No development shall take place until the written approval of the local planning authority has been issued confirming that the protective fencing is erected in accordance with his condition. The fencing shall be located at least 1.0m beyond the protected area detailed in BS 5837. Within the areas so fenced, the existing ground level shall be neither raised nor lowered. Exposed roots with a diameter of more than 25mm shall be left uncut. There shall be no construction work, development or development-related activity including the deposit of soil or the storage of materials within the fenced areas. The protective fencing shall be retained during the construction period.

Reason: To prevent trees from being damaged during building works.

10. All windows shall be set back from the external face of the wall. The depth of reveal shall be a minimum of 70mm.

Reason: To ensure a satisfactory appearance to the development in the interest of visual amenity.

- 11 No dwelling shall be occupied unless and until two external car parking spaces have been provided to serve that dwelling. Those spaces shall thereafter be permanently retained for the parking of cars.

Reason: In order to ensure that the development is served by an adequate level of car parking

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