

Knowsley Council
Regeneration and Economic Development Directorate.
Delegated Planning Report

APPLICATION NO: 24/00219/FUL

CASE OFFICER: Andrew Hunt

WARD: Halewood North

PARISH: Halewood
Town Council

LOCATION: Land At Junction Of Gerrads Lane And North End Lane (Adjacent To
The Coachouse), Halewood, Knowsley, L26 5QA

PROPOSAL: VARIATION OF CONDITIONS 2 AND 15 (PLANS AND NO GATES
PERMITTED) ATTACHED TO PLANNING PERMISSION
21/00491/FUL (ERECTION OF 7NO. DETACHED DWELLINGS,
GARAGES AND CONSTRUCTION OF NEW ACCESS ROAD
FOLLOWING DEMOLITION OF EXISTING PARTLY CONSTRUCTED
DWELLINGS) TO ALLOW FOR A NEW ENTRANCE WALL AND
GATE, AND CHANGES TO THE ELEVATIONS OF THE DWELLINGS
(INCLUDING THE ADDITION OF BALCONIES).

Site Description

The application site consists of irregular shaped housing site situated within the Green Belt. There are 7 large detached dwellings associated with the previously approved application have largely been built. A gate has been erected over the front of the site. There is a busy road to the south (Gerards Lane) and housing to the south west and south. There is also a minor road (North End Lane) which bounds the site to the north east. There is a wooded area to the north of the site.

Proposal

The proposal is a variation of condition 2 and 15 (Plans and No Gates permitted), attached to planning permission (21/00491/FUL - Erection of 7no two storey dwellings together with other associated works including construction of new access road following demolition of existing partly constructed dwellings), to allow for a new entrance wall and gate, and changes to the elevations of the dwellings (including the addition of balconies).

Consultations

Highways – Highways would have no objection in principle to the proposed variation of Condition 15 relating to the gated access. The plans provided show a sliding gate arrangement which will not cause obstruction on the highway when operated. The applicant has provided evidence to show that there is sufficient space for a vehicle to wait in front of the gate so as not to cause obstruction to the highway at Gerrards Lane.

Merseyside Fire and Rescue – No Objection subject to informatives.

Representations

This application has been publicised by letters sent to 40 neighbours. 4 Objections have been received consisting of the following main points:

- The balconies result in loss of privacy as they allow views over neighbouring gardens and into our house. The developer has deliberately built the balcony despite the original planning permission not allowing this.
- I object to the gates as these will cause deliveries to have to park outside on the pavement on what is a blind corner on a road that traffic regularly travels at 40 and above regardless of the 30 limit. There is no need for gates on a residential estate.
- The height of the home nearest has blocked a lovely view down the lane and across the fields for me.

Planning History

The original application for erection of 7 dwellings was approved (21/00491/FUL – approved 25.07.2023). There are also other previous applications, however, these are not considered relevant to the current application.

Relevant Policy

Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay; or where the development plan is absent, silent or out of date planning permission should be granted unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The development plan in Knowsley comprises the Saved Policies of the Replacement Unitary Development Plan, the Core Strategy Local Plan and the Joint Waste Local Plan. The following policies are relevant to the determination of this application.

KNOWSLEY LOCAL PLAN: CORE STRATEGY

CS2 - Development Principles

CS5 – Green Belt
CS7 – Transport Networks
CS19 - Design Quality and Accessibility in New Development

SAVED POLICIES - KNOWSLEY REPLACEMENT UNITARY DEVELOPMENT PLAN (ADOPTED JUNE 2006)

N/A

Article 35 Statement

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory way forward and due to the harm which has been clearly identified within the reason for the refusal, approval has not been possible.

Assessment

Principle of Development

Section 73

In relation to the section 73 process, the Judgement of Finney Vs Welsh Ministers (2019) has established that the description of development cannot be changed through the section 73 process.

“On receipt of such an application section 73 (2) says that the planning authority must “consider only the question of conditions”. It must not, therefore, consider the description of the development to which the conditions are attached. The natural inference from that imperative is that the planning authority cannot use section 73 to change the description of the development”.....

“A condition altering the nature of what was permitted would have been unlawful. That, no doubt, was why the inspector changed the description of the permitted development. But in my judgment that change was outside the power conferred by section 73”.

The addition of a large new wall and front gate next to a major and busy road is a significant new element of the scheme which must be reflected in any description of development. The original application did not refer to any gate element, therefore, in order to properly describe the current application, the description of development would have to be amended to refer to the wall and gate. However, such an amendment would fall outside the section 73 process and therefore cannot be done via the section 73 process. A full planning application would be required. This was communicated to the agent prior to validation via an email on the 30th April 2024, however, the applicant responded to this that they wished to proceed with the application as it stood. Therefore, the application falls outside the section 73 process

and is contrary to Section 73 (s73) of the Town and Country Planning Act 1990 (as amended).

Green Belt Policy

The application site is situated within the Green Belt.

Core Strategy Policy CS5 states that Inappropriate development will not be permitted in the Green Belt except in very special circumstances in which it has been demonstrated that the harm to the Green Belt (including any harm to its openness, purposes or to its visual and recreational amenities) would be clearly outweighed by other considerations.

NPPF Para 154 states that Development in the Green Belt is inappropriate unless one of the exceptions listed applies.

NPPF para 153 states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

In terms of the impact of the development on openness, National Planning Practise Guidance gives the following as factors to consider when assessing Green Belt openness.

“These include, but are not limited to:

- openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- the degree of activity likely to be generated, such as traffic generation”.*

The construction of a new wall and gate would involve building in the Green Belt which would not comply with any of the exceptions in the NPPF. The development therefore is inappropriate development in the Green Belt. As no very special circumstances have been demonstrated, the development is contrary to Core Strategy Policy CS7 and the NPPF.

Neighbour Amenity

Part 2 of Core Strategy Policy CS19 requires that development proposals avoid unacceptable impacts on existing residents, business occupiers, and future occupiers.

NPPF para 135 (c and f) requires that planning decisions should ensure that developments are sympathetic to local character and history, including the

surrounding built environment and landscape setting and provide a high standard of amenity for and future users.

The proposed amended plans would include large balconies at the rear of dwellings including the dwelling furthest west, next to the boundary with an existing property (The Coachhouse) to the west. The presence of a balcony particularly at this property causes significant harm to the privacy of both the garden area and the dwelling of The Coachhouse. There would be a severe loss of privacy to the garden area which would result in significant loss of privacy for the occupiers of the dwelling.

Overall, the extension would fail to ensure good living conditions for neighbours by causing significant harm to privacy contrary to Core Strategy Policy CS19 and NPPF para 135.

Social interaction, community safety, crime and the fear of crime.

Para 119 of the government's National Design Guide (2019) states that good design promotes social inclusion by creating balanced and mixed neighbourhoods that are suitable and accessible for all and maximises the potential for social integration and avoids features that could create actual or perceived barriers or contribute to segregation both within the development and with its surroundings.

“U3 Socially inclusive

119 Good design promotes social inclusion by:

- *contributing to creating balanced and mixed neighbourhoods that are suitable and accessible for all;*
- *maximising the potential for social integration in the layout, form and appearance of types of development;*
- *avoiding features that could create actual or perceived barriers, or contribute to segregation, both within the development and with its surroundings”;*

National Planning Policy Framework para 96 states that planning decision should promote social interaction with street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods and should promote places that are safe and accessible with low fear of crime.

“96. Planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which:

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;

b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of beautiful, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and

continual use of public areas; and”

Assessment

In relation to the impacts of the wall and gate, the addition of gate at the front of the site would undermine the overall cohesiveness of the local community, whilst there are other examples of gates enclosing properties, these are only for one property rather than a group of 7 houses. The gate would effectively result in the segregation of 7 dwellings from the rest of the community by creating a clear visual barrier. This would create a segregated community separate from the surrounding area. It would create a perception of the area being subject to high crime rates, potentially increasing the fear of crime for dwellings not within the gated cul-de-sac and their quality of life. Overall, the proposal would result in a harmful impact on social interaction, community safety and fear of crime. As a result, the proposal is contrary to the National Design Guide

Liverpool Appeal

This is supported by a dismissed appeal in the neighbouring authority of Liverpool for 8 dwellings. (Appeal Ref: APP/Z4310/W/19/3224223 - 24-31 Stowe Close, Liverpool L25 7YE). This appeal was dismissed on the grounds of impact on community interaction, community safety, crime and the fear of crime.

“The gates in the proposed location, would undermine the overall cohesiveness of the community and social interaction by segregating the eight properties from the rest of the community. This may in turn increase the risk or fear of crime for neighbours not within the gated cul-de-sac, and thus their quality of life.

7. Despite the proposal’s benefits insofar as crime, the fear of crime, and well-being, I conclude that the proposed development would, overall, have a detrimental effect on the character and appearance of the area, social interaction, community safety, crime and the fear of crime. Consequently, I conclude that the proposal would not accord with Framework paragraphs 91 and 127; which seek high quality development that: functions well and maintains a strong sense of place; is visually attractive; creates places that are safe, inclusive and accessible; and which promotes health and well-being”.

Highway Safety

NPPF para 116 states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

In relation to highways impacts, the applicant has provided a transport note that cover in detail the effects on the local network from the gate. This demonstrates that there would not be an unacceptable impact on highways safety from the proposals.

There would be sufficient space for a vehicle to wait in front of the gate to not cause an impact on highway safety. This view is supported by the council's highways team who have no objection to the proposal. Therefore, the application is compliant with NPPF para 116.

Other Considerations

In relation to loss of views associated with the original application, this is not a material planning consideration that can be taken into account.

Conclusion

The proposal is unacceptable in principle, and the development would cause significant harm in relation to community cohesion, crime and Neighbour amenity.

The development is contrary to the Core Strategy and Unitary Development Plan, the National Planning Policy Framework and National Design Guide.

Recommendation

Refusal

That Planning Permission be refused for the following reasons:

- 1) The proposal would go require changes to the description of development to reflect the changes to the original application. This goes beyond the changes permissible under the section 73 process. Therefore, the application is contrary to section 73 of the Town and Country Planning Act 1990 (As amended).
- 2) The development is inappropriate development in the Green Belt as it would involve built development which does not meet the exceptions in the National Planning Policy Framework. No very special circumstances have been demonstrated, in support of the proposal. Therefore, the development is contrary to Core Strategy Policy CS5, and National Planning Policy Framework paragraphs 152 to 155.
- 3) The proposed wall and gate would create a physical barrier between the site and the surrounding area, to the detriment of community cohesion, social interaction, crime and fear of crime. Therefore, the development is contrary paragraph 119 of the National Design Guide and, and National Planning Policy Framework paragraphs 96.
- 4) The proposed balconies result in loss of privacy to neighbours to the significant detriment of residential amenity. The proposal would fail to ensure good living conditions for neighbours by causing significant harm to privacy contrary to Core Strategy Policy CS19 and National Planning Policy Framework paragraphs 135.

Signed Case Officer¹:

Andrew Hunt

**Signed Authorising
Officer²:**

K Foster

Date:

13 December 2024

Informatives

N/A

1 I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed

2 I confirm that I do not have a personal relationship with the applicant, agent or other interested parties; I also confirm that I do not have a financial interest in the site or the development proposed