

<b>Agenda Item</b> A10	<b>Committee Date</b> 2 November 2009	<b>Application Number</b> 09/00465/OUT
<b>Application Site</b> West Sheen, 2 The Drive, Hest Bank, Slyne-with-Hest		<b>Proposal</b> Outline application for the erection of three dwellings accessed off Highfield Drive
<b>Name of Applicant</b> Mr Roger Banks-Lyon		<b>Name of Agent</b> Fisher Wrathall, The Old Warehouse, Castle Hill, Lancaster LA1 1YP
<b>Decision Target Date</b> 9 October 2009		<b>Reason For Delay</b> Awaiting consultation replies
<b>Case Officer</b>		Peter Rivet
<b>Departure</b>		No
<b>Summary of Recommendation</b>		Approval

### **1.0 The Site and its Surroundings**

- 1.1 West Sheen is a large detached house on the east bank of the Lancaster Canal. Access to it is by means of The Drive, a private unadopted road off Hest Bank Lane which also serves five other properties. The site is surrounded by low density housing.
- 1.2 The house has an extensive garden, which contains a number of mature trees. There is also a tennis court, which from its appearance has been out of use for some years.
- 1.3 The Lancaster Canal has been identified by Lancashire County Council as a Biological Heritage Site.

### **2.0 The Proposal**

- 2.1 The applicant has inherited the house and wishes to realise the value of the site by developing part of the land with three detached houses. All three would have gardens backing on to the canal. The proposal would still leave a substantial garden to the rear of the existing house. As the proposal is in outline form, only minimal details of the design of the houses have been provided but it is envisaged that they would be similar to others in the vicinity.
- 2.2 The initial intention was to access the site off The Drive but, as well as being unadopted, this road has very poor visibility at its junction with Hest Bank Lane. It is therefore proposed instead to extend the next road, Highfield Drive, which though narrow is adopted and has a somewhat better laid-out junction. The plans submitted have been further amended to allow the construction of a turning area of adoptable standard at the end of the extended cul-de-sac.
- 2.3 The application is accompanied by a brief Biodiversity Report. As the site contains a number of mature trees an Arboricultural Report has also been requested.

### **3.0 Site History**

- 3.1 There have been no recent planning applications involving this property.

## **4.0 Consultation Responses**

4.1 The following responses have been received from statutory consultees:

<b>Consultees</b>	<b>Response</b>
<b>Slyne-with-Hest Parish Council</b>	Support the views of the County Council on access to the site. The proposal for dwellings on the site does not conflict with the Village Design Statement (October 2006), prepared by the Parish Council following the Parish Plan consultation. They find it difficult to raise any objections.
<b>Lancashire County Council Highways</b>	Objected to the applicant's initial idea of using The Drive as an access road on the grounds of visibility and adoptable standards. On the amended Highfield Drive option, they note that visibility at its junction with Hest Bank Lane is less than recommended, and ideally they would like to see the sightlines improved, but it is clearly a better option in terms of carriageway width and pedestrian safety. They do not consider that refusal could be justified on highway grounds alone. A condition should be attached to any consent to ensure the provision of garages and car parking.
<b>Lancashire County Council Archaeology</b>	No observations on this proposal.
<b>Lancashire County Council Ecology</b>	Draw attention to national and local policies protecting biodiversity. They are particularly concerned that the site may accommodate bats and/or newts. Suggest that buffer planting may help to protect the ecology of the canal. They do not consider that the biodiversity statement submitted with the application is adequate; a more detailed assessment is needed. Observations on this are to follow.
<b>Environmental Health</b>	Recommend a working hours restriction, and also a condition preventing pile-driving without the express consent of the local planning authority. On the issue of contaminated land, they point out that no desk study has been submitted with the application. The site is within a radon gas affected area and the design of the buildings will need to incorporate measures to prevent its ingress and concentration.
<b>Housing Policy Officer</b>	No objections. The housing needs survey by David Couttie Associates indicates that there is a need for all types of market housing in the rural areas but mainly three and four+ bedroom houses.
<b>United Utilities</b>	No objections. If possible the site should be drained using a separated system. Surface water drainage may require an additional consent from the Environment Agency. A metered water supply will be required for each dwelling.
<b>British Waterways</b>	No objections to the proposal, subject to conditions requiring mitigation measures to prevent pollution of the waterway; details of the proposed boundary treatment; and measures to protect those trees on the site which it is proposed to retain. Generic advice is also provided regarding their land interests.
<b>Lancaster Canal Trust</b>	No objections to this application, but they ask that a sympathetic management plan for the mature trees on the canal bank be agreed with Lancaster City Council.

## **5.0 Neighbour Representations**

5.1 Three letters have been received from residents of The Drive objecting to its use as a site access, on the grounds that it is unsuitable (as has already been noted it is now proposed to access the land off Highfield Drive). Two other local residents do not object to the development if it is accessed via The Drive, but do not agree to the use of Highfield Drive. Concern is expressed about the possible ecological impact of the development.

5.2 In total at the time of compiling this report 17 letters and emails had been received from and on behalf of residents of Highfield Drive, who object to the proposal on the grounds that this road is narrow and has a dangerous access on to Hest Bank Lane. At present it has no turning area suitable for refuse vehicles. They point out that the road is generally very quiet and fear that additional traffic will erode its character. One of them is concerned that at some future date the existing house at West Sheen will be demolished and further houses built in its place.

5.3 It is also claimed that the boundary wall at the end of the cul-de-sac, part of which would have to be removed to allow the road to be extended, is not in the applicant's ownership (this has been referred to his agent, but the applicant believes it belongs to him).

5.4 Mention is also made of the loss of trees which would result from the development and the possible loss of wildlife interest.

## **6.0 Principal Development Plan Policies**

6.1 Policy **SC2** of the Core Strategy Policy indicates that 90% of new housing within the District will be concentrated in the main urban areas. Policy **SC3** says that the remaining 10% will be built in villages, to meet local needs. Hest Bank is one of those villages identified as containing a full range of services. Policy **ER7** calls for the use of renewable energy where appropriate.

6.2 Policy **SC8** states that the Lancaster Canal is one of the greenspace areas which will be protected and enhanced for informal recreation, while Policy **E1** seeks to identify how urban and rural areas will be protected and where possible enhanced in extent and in their diversity of wildlife species.

6.3 Of the "saved" policies from the Lancaster District Local Plan the most directly relevant is **H7**, which sets out criteria for new development within villages. One of these is that the development should make satisfactory arrangements for access. In addition Policy **E17** states that development likely to damage or destroy a County Biological Heritage Site will not be permitted.

6.4 The Slyne-with-Hest Village Design Statement, referred to by the Parish Council, is a non-statutory document but it is also a material consideration.

## **7.0 Comment and Analysis**

7.1 There is an ownership dispute in this case, as the proposed access would involve demolishing a stretch of wall at the end of Highfield Drive. The applicant believes that this is part of the curtilage of West Sheen. The owners of the bungalows at the end of Highfield Drive claim that it belongs to them. In these circumstances the local planning authority cannot arbitrate – and these are private matters between those concerned; the local planning authority may query the ownership situation with the applicant (as we have done) but ultimately it has to accept ownership claims as having been submitted in good faith. The applicant maintains that it is his belief that the wall is in his ownership. If permission is granted for the development, it is open to the neighbours to seek an injunction through the courts regarding the matter.

7.2 The site is surplus garden land within a well established residential area and in principle it is suitable for additional housing. It is within credible walking distance of a bus route, local services, and of the small group of shops at the bottom of Station Road. As the site already forms part of a residential curtilage there is no reason why the residential development, which would still leave garden areas abutting the Lancaster Canal, should prejudice its character or biodiversity.

7.3 The issue of concern to most neighbours is the site access. There are three possible routes:

- The Drive, which is the private road currently used to access the house at West Sheen. This is an unadopted, unsurfaced cul-de-sac which already serves six dwellings. It has a severely substandard junction with Hest Bank Lane offering very poor visibility in both directions. Unsurprisingly, the County Council's highway engineers do not regard it as suitable for any additional development.
- Highfield Drive, which is the option now put forward by the applicants. This is an adopted road; it is narrow, but it has a reasonably good surface and pavements on both sides. Its junction with Hest Bank Lane is also substandard, but it offers better visibility than that of The Drive. There is at present no turning area at the end suitable for anything larger than a small car, which means that at present large vehicles have to reverse back up the road, but the present application offers an opportunity to provide one.
- Sunningdale Avenue, to the south of the site, is for the most part an adopted road. However the last section of it, closest to the site, is an unadopted private access similar to The Drive, serving five houses. It would require upgrading before it would be suitable for additional development.

- 7.4 Members will wish to take note of the objections received from residents of Highfield Drive, but as it is an adopted road it is the most appropriate way of accessing the site, provided that a full size, adoptable turning head is included at the end of the extended cul-de-sac.
- 7.5 So far as the biodiversity of the area is concerned, the site is at present garden land and the bulk of it would remain so. The County Council's suggestion that the ecology of the canal should be protected by buffer planting raises difficulties as it would effectively obstruct access from the gardens to the canal for recreational purposes (as enjoyed by other properties along the Lancaster Canal). It is therefore considered to be overly onerous. In any case the illustrative plans indicate some planting at the Canal boundary. There are some species of planting of biodiversity interest, namely Hawthorn, Holly, Yew, Bramble, Leycesteria, Buddleia, Ivy and Privet, throughout the site. The Biodiversity report indicates that there are no bats within the potting shed or greenhouse within the existing garden area, and that none of the trees have any visible cavities suitable for bat habitats.
- 7.6 While the policies protecting the biodiversity of the Biological Heritage Site are a material consideration, it is difficult to see how the ecology of the canal would be prejudiced by the new houses as the garden at West Sheen already has the benefit of access to it. Within the site itself, the area to be built on will be very similar in footprint to the area of the disused tennis court.
- 7.7 The Environmental Health Service has raised the possibility of contaminated land. The site is however already in residential use, and there is no reason to believe that it has ever been used in the past for anything other than agriculture, before the present house was built. As the proposal is an outline application this issue can be satisfactorily addressed at the reserved matters stage.
- 7.8 The site is classed as being in a sustainable location within one of the eight rural communities highlighted in Policy SC3 of the Core Strategy where (cumulatively) 10% of new housing should be provided to meet the district housing supply.
- 7.9 Policy SC3 also seeks to "accommodate development that meet the local needs in villages", whilst Policy SC4 seeks to maximise the opportunities offered by the development of new dwellings to:
- Redress imbalances in the local housing market;
  - Achieve housing that genuinely addresses identified local housing needs; and,
  - Secure units of "in-perpetuity" affordable housing.

Subject to the report of the Head of Planning Services in respect of the issue of local need, the current situation is no different to previous (pre-housing restraint) eras, in that each application for additional housing is considered on its own planning merits. This site is within the established boundaries of the settlement in a residential area and is appropriate for housing, where other site-specific matters are considered acceptable.

## **8.0 Conclusions**

- 8.1 This is infill development in a sustainable location. There is a need for additional housing within the district and three relatively large houses on this site can reasonably be expected to release three smaller ones elsewhere. The scheme will provide a community benefit in the form of a full size turning head suitable for large vehicles at the end of Highfield Drive.
- 8.2 While the objections of neighbours will be noted, there is no reason for the City Council as local planning authority to object to this proposal.

## **Recommendation**

That Outline Planning Permission **BE GRANTED** subject to the following conditions:

1. Standard outline condition: details to be submitted within three years of siting, design, external appearance.
2. Boundary treatment to be agreed.
3. At least 10% of energy to be generated on site using renewables.
4. At least Code 3 for Sustainable Homes to be achieved.

5. Measures to protect existing trees from damage.
6. Mitigation measures to protect waterway from pollution.
7. Contaminated land desk study to be submitted.
8. Details of drainage to be agreed.
9. Separated drainage system to be provided.
10. Adoptable access road with turning head to be provided.
11. Car parking/garaging to be provided.
12. Construction work to take place only between 08:00-18:00 Monday - Saturday, no work on Sundays or officially recognised public holidays.
13. No pile driving without the consent of the local planning authority.
14. Standard construction condition in respect of breeding birds

### **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

### **Background Papers**

1. 1:1250 scale Site Location Plan showing position of the tennis court within the site.