

<b>DECISION DATE</b>  5 July 2005	<b>APPLICATION NO.</b>  05/00559/FUL A22	<b>PLANNING COMMITTEE:</b>  27 June 2005
<b>DEVELOPMENT PROPOSED</b>  <b>APPLICATION TO REGULARISE RETENTION OF WINDOWS AND DOOR IN SOUTHERN ELEVATION, ERECTION OF SCREEN WALL AND FENCE AND DISABLED ACCESS AND ADDITION OF BALCONY TO WESTERN ELEVATION</b>		<b>SITE ADDRESS</b>  <b>15 KNOWLYS DRIVE, HEYSHAM, MORECAMBE. LA3 2PD.</b>
<b>APPLICANT:</b>  Mr and Mrs H. G. Maskrey, 11-15 Knowlys Drive, Heysham.		<b>AGENT:</b>  Ian J. Potts Associates

#### **REASON FOR DELAY**

N/A.

#### **PARISH NOTIFICATION**

None to date, any comment will be reported verbally to Committee.

#### **LAND USE ALLOCATION/DEPARTURE**

Lancaster District Local Plan - No specific allocation.

#### **STATUTORY CONSULTATIONS**

**Chief Engineer** - No objections.

**County Highways** - No observations.

#### **OTHER OBSERVATIONS RECEIVED**

To date four letters of objection have been received for local residents the main grounds for objection include: -

- Objections to the proposal, loss of a tree lined verge, detrimental to visual amenity and value of neighbouring residential properties.
- Loss of privacy, impact of balcony upon the neighbours.
- Undermines the reasons for prosecution for non-compliance.
- Developing the site for two dwellings, access should be off Knowlys Drive.
- Inappropriate within the street scene.

## **REPORT**

### **Site and its Surroundings**

This application site is located at the southern end of Knowlys Drive, adjacent to Knowlys Road, Heysham. The site comprises of a semi-detached property, No. 11 Knowlys Drive and the side garden area within which a separate detached dwelling is under construction. The dwelling is a two-storey development with additional accommodation within the roof space. Immediately to the south of the site lies Knowlys Road, a local distributor road serving Heysham village centre and a wider residential area. Knowlys Road sits at a higher level (approx 2.2m) than the ground level of the application site which is presently accessed via Knowlys Drive. A privately maintained, public footpath links the two roads and runs diagonally along the eastern boundary of the application site.

### **The proposal**

The present application seeks consent for a number of distinct elements some of which are retrospective others relate to proposed development. They are as follows:-

- a. Retrospective consent for the retention of an access door and windows to the Knowlys Road elevation
- b. Modification of the approved boundary arrangement to Knowlys Road, omitting the approved hedgerow and tree planting with the substitution of a screen wall and fence (2.1m high overall) adjacent to the footpath along Knowlys Road and the provision of tree planting (six flowering cherry trees) behind the wall line.
- c. Construction of an access ramp leading from the public footpath into the retained access door at first floor level of the dwelling to improve access arrangements for the disabled.
- d. Construction of a large semi circular balcony at first floor level sited to the rear of the dwelling.

### **Planning History**

The site has a long and complex history relating to the development of the site as a whole and the erection of a detached dwelling to the side garden of No. 11 Knowlys Drive in particular. Outline planning consent was gained under 96/00446 and a Reserved Matters approval followed under 96/01110/REM for a detached dwelling.

Work commenced on the site early in 1998, however it became apparent that the development under construction was not that previously approved as a subsequent extension to his existing property interfered with the siting of the approved dwelling. The applicant's failure to either stop work or seek consent for the modifications resulted in an enforcement notice being served in March 1998. The applicant appealed against this notice and a Planning Inspector subsequently found in favour of the City Council and upheld the notice.

A further application was subsequently granted under 02/01179/FUL to revise the design of the dwelling to accommodate the extensions to number 11. Work progressed on the construction of the approved dwelling over the following years. Again, however, it became apparent that the ongoing works did not accord with the approved plans and the applicant's failure to either construct the development in accordance with the approved plans or seek to regularise the unauthorised works lead to a Breach of Condition Notice being served in September 2004. The applicant failed to address the demands of the Notice and was subsequently prosecuted in February 2005 for failing to comply with the Breach of Condition Notice.

The applicant has submitted this present application in an attempt to regularise the unauthorised works by seeking their retention and in addition to further modify the scheme with the inclusion of a modified boundary treatment, construction of a rear balcony and creation of a second access into the property at first floor level.

## **Planning Policy**

The application site is located within an area of existing residential properties and as such the principle of residential use is not in question. The planning policy issues centre around the suitability of development of this small infill site in respect of the impact upon neighbouring residential properties and the wider street scene. It is considered that the relevant policies are H19 (Development of Small Sites in Lancaster, Morecambe, Heysham and Carnforth) and the design guidance contained within SPG 12 Residential Design Guide.

POLICY H19 reads: -

IN LANCASTER, MORECAMBE, HEYSHAM AND CARNFORTH, NEW RESIDENTIAL DEVELOPMENT WITHIN EXISTING HOUSING AREAS WILL BE PERMITTED WHICH;

WOULD NOT RESULT IN THE LOSS OF GREEN SPACE OR OTHER AREAS OF LOCALLY IMPORTANT OPEN SPACE;

WOULD NOT HAVE A SIGNIFICANT ADVERSE EFFECT ON THE AMENITIES OF NEARBY RESIDENTS;

PROVIDES A HIGH STANDARD OF AMENITY;

MAKES ADEQUATE PROVISION FOR THE DISPOSAL OF SEWAGE AND WASTE WATER, AND

MAKES SATISFACTORY ARRANGEMENTS FOR ACCESS, SERVICING AND CYCLE AND CAR PARKING.

In addition, guidance contained within SPG 12 Residential Design Guide and in particular paragraphs 2.13, 2.17 and 5.8 provides direction in respect of landscaping and protection of privacy.

## **Comments**

The original design concept of the planning proposal to develop the land for an additional dwelling included the provision of a substantial planting scheme along the boundary with Knowlys Road. The scheme comprised the provision of a hedgerow with individual specimen trees contained within it. This form of design was considered to be critical to the original approval. The development of the site initially resulted in the loss of a mature belt of trees and shrubs and the provision of a replacement planting scheme was an essential element of the approved scheme.

The landscaping scheme was considered necessary as the new dwelling was to be sited close to Knowlys Road and its impact needed to be softened within the street scene, in addition, it was considered that the soft landscape approach to the design visually help to link this road frontage to the adjoining open land known as Rayners field.

The value of the landscaping was considered at the original Public Inquiry relating to the unauthorised development of the site in 1998. The Planning Inspectorate in reaching the decision to dismiss the appeal in part concluded that the building could not be located closer to Knowlys Road than the approved scheme as it would have a detrimental impact on the street scene and further sighted the value of the landscaping scheme in softening the impact of the new dwelling when viewed from Knowlys Road.

In addition, the recent Breach of Condition Notice was served upon the applicant as it was considered that:-

The introduction of windows and a door way would prevent the implementation of the comprehensive landscaping and screening proposals which are considered essential to satisfactorily screen the substantial side elevation and to maintain the aesthetics of the street scene.

The development as presently proposed will result in a substantial wall/fence being constructed along the site boundary with Knowlys Road, with a limited amount of tree planting located behind the wall. This arrangement is not considered appropriate as it will result in a design that does not screen the solid nature and massing of the gable wall of the dwelling but merely compounds the situation. The introduction of an access to improve access for the disabled, whilst in itself is a laudable approach, the resulting ramping and landing construction will further reduce the area available for the implementation of an appropriate landscaping scheme, again to the detriment of the wider street scene.

The proposal also seeks to construct a new first floor balcony to the rear of the property. The balcony measures approximately 6.0m across and projects in a semi circle some 2.8m from the rear wall of the dwelling. It is considered that the introduction of a balcony in this location will be unneighbourly resulting in a loss of privacy to the neighbouring garden areas, particularly that of the adjoining property at 11 Knowlys Drive.

## **Conclusion**

Overall, it is considered that the proposals to retain unauthorised development and to modify the approved scheme will result in a development which unduly impacts upon neighbouring residential amenity and that of the wider street scene as such the proposal is considered to be contrary to the aims and objectives of local plan policy and the design guidance contained within SPG 12 and should therefore be resisted.

## **HUMAN RIGHTS ACT IMPLICATIONS**

It is recognised that a recommendation of refusal may result in an interference with the applicant's right to develop their land in accordance with the Human Rights Act. However, on the facts of this case it is considered both necessary and proportionate to control development in the public interest in light of the concerns set out in this report and for the stated reasons.

## **RECOMMENDATIONS**

**THAT PERMISSION BE REFUSED** for the following reasons:-

1. Development of the site in the manner proposed would adversely affect the amenities of nearby residential properties by reason of overlooking and loss of privacy. Furthermore, the introduction of a hard landscaped boundary and the omission of a hedgerow and tree planting scheme will result in the loss of a satisfactory screen to the side elevation of the dwelling and a reduction in the aesthetics of the street scene. As such the proposed development is contrary to Policy H19 and SPG 12 - Residential Design Guide of the Lancaster District Local Plan.