



Supporters of Ashton Gardens

SOAG exists to protect, preserve, and enhance Ashton Gardens.

20 May 2005

To: Fylde Borough Council
Town Hall
Saint Anne's on the Sea
Lancashire
FY8 1LW

Dear Mrs. Cary

Written Objection to Planning Application 5/2005/0413

INFORMATION

- Although presented and couched as an amendment, this application is for a full planning permission.
- The "Reason for Approval" claims the proposal conforms to the relevant development plan policies. It does not.
- The agenda report presents a false premise for the committee to base its decision when it says "*....the only consideration is whether the amendments now before committee are acceptable and whether there have been any material change in circumstances since the last permission*". This application is not an amendment. It is a new application for a full permission on a site that has several previous permissions, and should be subject to the same treatment as any new application.
- The first set of plans for this application was deposited on 28th April. A second set of plans was deposited on 9th May. The normal 21 days notice for objections to be made has not been met in respect of the second set of plans. Consequently, there has been inadequate time to properly consider plans and potential objections, and to clarify details before the committee considers the application.

Chairman
Fred Moor
18 Sandhurst Avenue
St Annes, Lancashire FY8 2DA
Tel: 01253 728047
chairman@ashtongardens.org.uk

Secretary
Jon Harrison
6 Nateby Close
St Annes, Lancashire, FY8 3PW
Tel: 01253 724298
secretary@ashtongardens.org.uk

Treasurer
Jill Sumner
10 Dorset Road
St Annes, Lancashire FY8 2ED
Tel: 01253 721608
treasurer@ashtongardens.org.uk

- It is a major application, including land listed as Grade II on the National Register of Historic Parks and Gardens; land that is within a designated Conservation Area, and land that the Council must register with the Charities Commission as a charitable gift from Lord Ashton. In planning terms it is a very important site that deserves a proper exposition of all the planning policies affecting both the site and this application, together with an accurate and properly balanced report to councillors.
- There are three important buildings within the site, all of which are currently being considered for listing by DCMS. The report notes only one.
- There is a right of way within the site. The developer declared its existence on both his previous applications, but this application denies its existence.

Your officers have told us "*...the path is not marked as a right of way on the Definitive Rights of Way map. As such, as far as the Council is concerned, the application form is correct*". This is wrong. Section 14 of the DETR/Countryside Commission "*Guide to Definitive Map Procedures*" sets out that "*Rights may exist over a way not shown on the definitive map, even though they are not recorded on it, or rights may have been recorded in error*". We are saddened that in its planning process, the Council appears unconcerned to balance needs and rights of users, and simply looks to accept the developer's statement.

This perception prompted the statutory process to have this (and other ways in Ashton Gardens) recorded on the definitive map. The process was instigated not by an individual as suggested in the agenda report, but by this group, supported with written evidence statements from more than 30 individuals concerned at the loss, and who have used the ways as of right and without challenge for a period of more than 60 years.

- The applicant describes the reason for the application as being "*to accommodate landscape restoration scheme for Ashton Gardens*" This is misleading. There is no significant change to the landscaped areas within Ashton Gardens from the reserved matters approval of 27th April 2005. The principal reason for the move appears to be to allow more space within the site for maintenance and access, and to partially accommodate the right of way the developer claims not to exist.
- This application seeks to take-in a strip of land in the Gardens on the north of the proposed building (sometimes referred to as 'the easement

land') to which the public will continue to have the right access. The inclusion of this land within the developer's landscaped area is entirely illogical and unnecessary if a separate easement is to be granted.

- The application involves not just the repositioning of the building from a previous permission. Changes undocumented by the applicant include:
 - Changes to the building footprint.
 - Re-arrangement of room layouts, sizes and uses on the north easternmost wing.
 - Changed elevations on the north eastern face (balconies moved to the other side of the bay protrusion; window positions and sizes changed etc)
 - Changed car parking layout

This is not an amendment to an existing permission, it is a full application for planning permission, and described as such on the agenda report. We therefore make objection on two criteria: practice and principle.

OBJECTIONS

Objections Based On Practical Issues

1. The application fails to recognise the existence of a public right of way. It purports to deny its existence.
2. The application proposes the unauthorised diversion of a public right of way.
3. It seeks to replace a macadam surface with gravel, making it inaccessible to the infirm and those with prams and wheelchairs.
4. New planting within the site (near to points marked B and C on the plan) will block the right of way, and will force path users closer to the projecting bay windows of the dwelling, compromising privacy and security for the occupants.
5. The right of way still passes close to bedroom windows in the ground floor apartments, giving rise to security problems for occupants. No physical measures to afford security to residents have been provided, either on the gardens boundary or within the developer's site. Crime and security are addressed in the Council's planning policy HL11

where developments are required to provide a safe and crime free environment for residents. Policy HL11 is not addressed (nor is it mentioned) in the agenda report.

6. There is insufficient space between the apartments and the police station. As a result, it will be impossible to undertake external maintenance to gable walls on either the apartments or the police station. The recently completed Nichol Court apartments, built using high quality materials, are currently being fully re-pointed. Such work will not be possible on the adjoining gables of the repositioned building.
7. The application provides insufficient parking spaces. For the 57 apartments, only 23 parking spaces are now proposed. A previous application provided 29 which the County Surveyor described as being "*realistically too low*". We understand the County Surveyor has not been consulted on this new application.
8. Having taken some advice on current fire regulations, we believe the layout of the building, and especially the smaller size of the parking area, means that it now fails to meet the current access requirements of the fire authority. There are specific requirements for spaces, and distances for appliances, turntables, platforms and the like. We understand the Council's officers do not expect to specifically consult the fire authority on this matter, and we regard this as a serious omission. In our view, four storeys of retirement apartments with no vehicular access to two of the elevations and a reduced manoeuvring area means that fire safety should be a matter of concern at this stage.

Objections Based On Planning Policy.

The officer report cites the Council's relevant planning policies as being:

- EP3: Conservation Areas Policy
- EP6: Historic Parks and Gardens

None of these policies are rehearsed or explained in the report. Because of this, it may not be apparent that they conflict with this application.

For example, EP3 only permits development where the character or appearance of the area and its setting will be improved or enhanced. It is difficult to imagine how this can be so, when the development of the site is so over-intensive, and the visual dominance of the proposed building is so overwhelming and close the historic gardens.

EP6 says that development within a designated historic park or garden will not be permitted where this would prejudice its quality, character or appearance. It also says that development outside an historic park or garden which would harm its setting will not be permitted. We believe this application does harm the setting and prejudices the character and appearance of the historic gardens.

We agree that this judgment relies on subjectivity and interpretation. Nevertheless, when the Councils own historic landscape experts, Scott Wilson Resource Consultants, say *"The denial of planning permission to develop on any area of this garden must be seen as a key to the retention and restoration of the historic character of the gardens. This relates not only to the change in boundary that would result from such development and loss of land but to the irreversible change that would result from demolishing an original and public building, such as the Ashton Institute and its replacement with privately owned hard space or buildings"*, one might reasonably have expected officers to draw attention to such concerns in balancing their arguments in the report presented to committee.

We further believe that parts of the site are affected by other policies that have not been set out in the report, and that if approved, this application represents a departure from most of those policies:

1. Various policies relating to housing, apartment development and security
2. EP2: Open Spaces Within Towns and Villages
3. TREC 13: Public Open Space
4. TREC 12: Sport and Recreation Facilities

1). Housing Policies

It seems strange that in a report on an application for an apartment development, there is no mention or consideration of any of the Council's policies on these matters.

2). EP2: Open Spaces Within Towns and Villages

On the version of the proposals map we were able to consult in the time available, planning policy EP2 applies to part of the site. It prohibits development on spaces that are considered to be essential to the setting, character or visual amenities of towns and villages. We argue that land important enough to be designated part of a grade II listed garden and within a conservation area is essential to the setting, character or visual amenity of the town. We therefore believe approval of this application would be a departure from approved planning policy.

3). TREC 13: Public Open Space

The proposals map shows this policy applying to part of the application area. It requires such areas of public open space to be safeguarded from development unless, as a result of development, equivalent or improved provision would be achieved in the locality. This application provides no equivalent or improved provision. In fact it provides no public open space at all, and thus does not meet the criteria to permit development. Approval of this application would be a departure from the Council's planning policy.

4). TREC 12: Sport and Recreation Facilities

This is the one of the most compelling reasons not to approve the application. TREC12 says, "*All existing indoor public and private sport and recreation facilities will be retained. Proposals for the redevelopment of such facilities for other purposes will not be permitted. Proposals to provide additional or improved sports and recreation facilities will be permitted within settlements providing the following criteria can be met.*" [The subsequent list of criteria includes: No conflict with other development policies; is inkeeping with the character scale siting etc; will not affect amenity, privacy, neighbouring properties etc; no loss of important local features; and other items]

The key sentence here is "***Proposals for the redevelopment of such facilities for other purposes will not be permitted***"

There is no ambiguity here. No if or buts. The redevelopment of existing indoor public and private sport and recreation facilities to other uses is not permitted.

It follows that land containing buildings used for this purpose may not be changed to residential use and at the same time be said to conform with the Council's development plan policy.

This policy applies to the Ashton Institute, which was the first public recreational building in the town, and has had no other use in its history. Perhaps even more importantly in terms of user numbers, it applies to the Empire Deluxe Cinema/Plaza Bingo and Social Club/Casino building that was used for recreation. It brought thousands of customers into the town centre every week, and provided for their recreational needs until Dransfield Properties recently bought and closed it.

An argument that TREC12 should not be applied in this instance - because previous permissions have failed to take proper account of it - is not a valid justification for approving this stand-alone application.

Furthermore, approving this application to change the use of these buildings to residential would be a departure from the Council's planning policy.

CONCLUSION

This application is a stand-alone full application for planning permission. It is independent of any previous applications or permissions. We ask that it be refused for the reasons we have given.

Should Committee be minded to approve it, we ask that they declare this to be their intent, in order to allow the Secretary of State an opportunity to call-in the application which, in several respects, represents a departure from the Council's adopted development plan policy, and concerns a major application involving Gardens recognised nationally as being of importance.

Yours sincerely

Fred Moor
Chairman

cc Members of the Development Control Committee.