

Application No: 14/2840C

Location: Land off New Platt Lane, Allostock, Cheshire

Proposal: Formation of a new access road from New Platt Lane

Applicant: Mr Peter Kilshaw, Bloor Homes Ltd

Expiry Date: 05-Sep-2014

SUMMARY RECOMMENDATION:

APPROVE subject to conditions

Main issues:

- The principle of development
- The impact of the design of the development
- The impact upon neighbouring amenity
- The impact upon highway safety
- The impact upon trees and landscape
- The impact upon ecology
- Drainage and flooding

REFERRAL

The application has been referred to Southern Planning Committee because its predecessor, application 13/2631C, was also considered at this committee as it presented a 'departure' from policy.

SITE DESCRIPTION

The application site predominantly relates to the residential plot of No.2a New Platt Lane, Goostrey within the Goostrey Settlement Zone Line.

The residential plot lies to the western side of the road and is elongated in shape and comprises of a detached bungalow.

To the rear (north) and side (west) of the plot is the boundary with Cheshire West and Chester.

A small parcel of land, approximately 8 metres squared, falls outside of the applicant's residential curtilage within the Open Countryside.

DETAILS OF PROPOSAL

Full planning permission is sought for the creation of a new access road from the western side of New Platt Lane to serve a recently approved residential development in Cheshire West and Chester.

In addition, the change of use of a small parcel of land approximately 8 metres squared from agricultural use is sought to the rear of the site in order to reflect the Cheshire East boundary.

The application has been submitted following the resolution to refuse application 13/2631C on the 11th December 2013, for the following reasons;

1. *The Local Planning Authority has significant concerns regarding the build ability of the access road through the chicane. On the basis of the information submitted, it is considered that the applicant has failed to demonstrate that, sufficient space would exist for adequate service strip and flood mitigation provision, and which could cause a situation to arise where it would not be possible for vehicle and pedestrian access to be safely maintained. The proposal is therefore contrary to Policy GR9 of the adopted Congleton Borough Local Plan First Review.*
2. *The proximity of the proposed access road and subsequent vehicular traffic to serve the development would have an unsympathetic relationship and therefore a detrimental impact on the amenity of the occupiers of the adjacent dwelling. As a result the development would be contrary to Congleton Local Plan Policy GR2 and GR6.*

It was also resolved that;

1. *That authority be DELEGATED to the Interim Planning and Place Shaping Manager to make representations to CWAC in the event that they decide to approve the application to them, requesting that they secure the following.*
 - *S106 contributions to increase the capacity of the existing play area at Boothbed Lane within Cheshire East:*
 - *Enhanced Provision: £11,812.53*
 - *Maintenance: £38,506.50*
 - *S106 contribution of £40,000 toward the improvement of bus shelters, the provision of cycle stands and pedestrian and cycle facilities within Goostrey.*

The applicant now seeks to address the 2 reasons for refusal with the submission of this application following the approval of the associated housing development by Cheshire West and Chester (CWAC).

It should be noted that a revised Location Plan has been received during the application process to ensure that the 'red line' plan absolutely reflects the district boundary between Cheshire East Council (CEC) and CWAC, which was at a slightly different angle to that which we originally submitted.

This minor change was not considered significant enough to warrant a re-consultation.

RELEVANT PLANNING HISTORY

13/2631C - Full Planning Application For A Residential Development Comprising Demolition Of Existing Poultry Houses And Erection Of 38 Dwellings With Associated Access And Landscaping. (Access Road Only Within Cheshire East. Main Part of Development In Cheshire West And Chester) – Refused by Planning Committee but no decision notice issued to date.

13/02468/AI (Cheshire West and Chester) – Full Planning Application for a residential development comprising demolition of existing poultry shed and erection of 38 dwellings with associated access and landscaping – Approved 16th May 2014.

PLANNING POLICIES

Policies in the Local Plan

PS5 – Villages in the Open Countryside and Inset in the Green Belt

GR1 - New Development

GR2 - Design

GR5 - Landscaping

GR6 - Amenity and Health

GR9 - Accessibility, servicing and provision of parking

GR14 - Cycling Measures

GR15 - Pedestrian Measures

GR17 - Car parking

GR18 - Traffic Generation

GR21- Flood Prevention

NR1 - Trees and Woodland

NR2 - Statutory Sites (Wildlife and Nature Conservation)

NR3 - Habitats

NR5 - Habitats

National Policy

National Planning Policy Framework

Cheshire East Local Plan Strategy – Submission Version

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28th February 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

Cheshire East Local Plan Strategy – Submission Version

PG2 – Settlement Hierarchy
 PG5 – Open Countryside
 SD1 - Sustainable Development in Cheshire East
 SD2 - Sustainable Development Principles
 SE1 - Design
 SE2 - Efficient Use of Land
 SE3 – Biodiversity and Geodiversity
 SE4 - The Landscape
 SE5 – Trees, Hedgrows and Woodland
 SE14 - Jodrell Bank
 IN1 - Infrastructure
 IN2 – Developer Contributions

Other Material Policy Considerations

Article 12 (1) of the EC Habitats Directive
 The Conservation of Habitats and Species Regulations 2010

OBSERVATIONS OF CONSULTEES

Strategic Highways Manager – No objections, subject to conditions that the developer providing a detailed design and construction drawing of the junction and access road prior to commencement of development and that the development be constructed in accordance with the approved plans. An informative requesting that the developer sign a S38 Agreement under the highways act 1980 has also been proposed.

Environment Agency - No comments received at time of report

United Utilities - No comments received at time of report

Environmental Protection – No comments received at time of report

VIEWS OF THE PARISH COUNCIL

Goostrey Parish Council – Object to the proposal on the following grounds;

- Highway safety – dangerous access point, pedestrian safety, cycle safety, poor visibility,
- Procedural – Question the low figures detailed within the traffic statement

OTHER REPRESENTATIONS

Letters of objection to the development have been received from 19 households and groups. The main areas of concern relate to

- Principle of development
- Application has already been refused
- Loss of open countryside
- Sustainability – impact upon local public services, insufficient public transport links
- Impact of already having a 5-year housing land supply
- Procedural matters – Not been consulted
- Highway safety – visibility insufficient, dispute over measurement of access width, pedestrian safety, increased traffic, impact upon cyclists, impact upon emergency and refuse vehicles, road too narrow, speeding concerns
- Amenity – Noise & light pollution, loss of privacy
- Ecology
- Trees
- Drainage and flooding

APPLICANT'S SUPPORTING INFORMATION:

- Arboricultural Impact Assessment
- Bat and Badger Survey
- Transport Statement

OFFICER APPRAISAL

General Information

A thin slither of land to the rear of the properties on Lea Avenue lies within the CEC boundary and formed part of the previous planning application 13/2631C. This slither of land does not form part of this application.

Main Issues

The application site falls almost exclusively within the CEC boundary. The associated housing to which the access would be for lies within the CWAC boundary.

It was therefore for CWAC to determine whether or not to grant planning permission for the proposed dwellings and it was within the jurisdiction of CEC to grant or refuse planning permission for the associated access road.

On the 11th December 2013, Cheshire East Council's Southern Planning Committee resolved to refuse planning application 13/2631C for the access and an associated change of use of a strip of agricultural land to the rear of the properties on Lea Avenue (which does not form part of this application).

On the 16th May 2014, CWAC resolved to approve the associated housing development.

Southern Planning Committee resolved to refuse the previous application for the following reasons;

- 1. The Local Planning Authority has significant concerns regarding the build ability of the access road through the chicane. On the basis of the information submitted, it is considered that the applicant has failed to demonstrate that, sufficient space would exist for adequate service strip and flood mitigation provision, and which could cause a situation to arise where it would not be possible for vehicle and pedestrian access to be safely maintained. The proposal is therefore contrary to Policy GR9 of the adopted Congleton Borough Local Plan First Review.*
- 2. The proximity of the proposed access road and subsequent vehicular traffic to serve the development would have an unsympathetic relationship and therefore a detrimental impact on the amenity of the occupiers of the adjacent dwelling. As a result the development would be contrary to Congleton Local Plan Policy GR2 and GR6.*

This application has been submitted in an attempt to address the above.

The main issues in the determination of the application are the acceptability in principle of the proposed access road and its impact in terms of highway safety, design, amenity, ecology, drainage, trees and landscape.

The assessment of the associated housing development is not considered as part of this proposal.

Principle of Development

The majority of the site lies within the Goostrey Settlement Zone Line as designated in the Congleton Borough Local Plan First Review 2005.

Within the Goostrey Settlement Zone Line, Policy PS5 of the Local Plan advises that development is permitted where it is appropriate to the local character in terms of use, intensity, scale and appearance and does not conflict with other policies within the Local Plan.

As such, as the application site falls within the Settlement Zone Line, the development is considered to be acceptable in principle, subject to its adherence with other Local Plan policies which are considered below.

The small 8 metre squared parcel of land which falls just outside of the residential curtilage of No.2a Platt Lane, within the Open Countryside, would be contrary to Policy PS8 of the Local Plan.

However, following the approval of the associated housing on this associated piece of land by CWAC, the impact of the change of use of this parcel would not have a detrimental impact upon the openness of the countryside and as such, is deemed to be acceptable in principle.

Design and Visual Impact

The proposed access road is largely screened from the surrounding area, including the Open Countryside, by existing properties, tree cover and vegetation, which could be protected and enhanced through conditions. Therefore, it is not considered that a “stand-alone” reason for refusal on design and visual impact grounds could be sustained.

However, the road would be visible from New Platt Lane and would result in the loss of trees and other vegetation which currently occupies the site - this is discussed in more detail below. Consequently, it would result in a change in the character of the site.

However, subject to a sympathetic landscaping scheme being secured via condition, in conjunction with the fact that CWAC have resolved to approve the associated housing to the rear, it is not considered that this issue would be significant enough to warrant refusal of the application on design grounds.

Amenity

The proposed access road has the potential to impact on the amenity of neighbouring properties, including no 2a New Platt Lane, the curtilage of which the proposed access road will run through. No.2 New Platt Lane and No.50 Lea Avenue also have the potential to be affected due to the proximity of the proposed access road to their rear and side boundaries. Potential impacts include vehicle noise, headlights and overlooking from users of the road.

However, the existing boundary treatment vegetation and tree cover which can be protected through the use of suitable conditions will help to mitigate any impact. The landscaping and boundary treatment can be enhanced through the use of conditions. Furthermore, it is common within suburban residential areas for residential access roads, to run close to side and rear boundaries of other properties. Therefore subject to these conditions, it is not considered that a reason for refusal on amenity grounds could be sustained in an Appeal situation.

Highways

The previous application has a resolution to refuse by Southern Planning Committee for 2 reasons including;

- 1. The Local Planning Authority has significant concerns regarding the build ability of the access road through the chicane. On the basis of the information submitted, it is considered that the applicant has failed to demonstrate that, sufficient space would exist for adequate service strip and flood mitigation provision, and which could cause a situation to arise where it would not be possible for vehicle and pedestrian access to be safely maintained. The proposal is therefore contrary to Policy GR9 of the adopted Congleton Borough Local Plan First Review.*

As a result, the applicant has submitted further highway information.

As part of the previous application, the size of the gap that would accommodate the chicane was unclear. The plan submitted as part of this application clarifies this point. It shows that the width of the chicane at the 'pinch point' is 10.03 metres.

In response to the additional information, the Strategic Highways Manager (SHM) has advised that the junction geometry and visibility splays are acceptable and meet the required standards.

The visibility 'y-distance' at the main entrance of 59 metres satisfies the requirements in Manual for streets.

It is advised that the Transport Statement provides all necessary details including speed surveys and plans which are agreed with by the SHM.

It is advised that traffic generation from the neighbouring approved residential development is *'...very low and will not have a material impact on the local highway network.'*

As such, the SHM raises no objections, subject to a condition requiring the prior submission of a detailed design and construction drawing for the new junction and access road prior to the commencement of development. It is also recommended that a condition be imposed to implement the development in accordance with the approved details.

Trees and Landscape

There are trees on the New Platt Lane frontage, trees on the west and eastern boundaries and trees on adjoining land.

The previous submission was supported by a tree survey, an Arboricultural Impact Assessment and an Arboricultural Method Statement.

This application is supported by an updated Arboricultural Impact Assessment which refers to the application site only.

A section of a proposed access to the site leading off new Platt Lane would run through the garden to 2a New Platt Lane, in close proximity to a number of trees. Whilst trees on the New Platt Lane frontage are shown for retention, the development would result in the loss of one Leyland Cypress on the western boundary of this property, and it appears the road may be within the root protection area of a number of off-site trees to the west which have been afforded TPO protection by Cheshire West and Chester Council. The trees in question are over mature Birch with an understorey of Rhododendron. They are afforded low Grade C in the tree survey.

The pinch point between the trees and the road occupies a relatively short distance, and the number of trees affected would be small. There would be opportunities for planting in mitigation and on this basis any impact on public visual amenity would be limited. Therefore, it is not considered that a refusal on tree grounds could be sustained.

Ecology

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate *"in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment"* among other reasons.

The Directive is then implemented in England and Wales : The Conservation of Habitats and Species Regulations 2010. ("The Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

The Regulations provide that the Local Planning Authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

It should be noted that, since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must have regard to the requirements for derogation referred to in Article 16 and the fact that Natural England will have a role in ensuring that the requirements for derogation set out in the Directive are met.

If it appears to the planning authority that circumstances exist which make it very likely that the requirements for derogation will not be met, then the planning authority will need to consider whether, taking the development plan and all other material considerations into account, planning permission should be refused. Conversely, if it seems from the information that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements will be met or not, a balanced view taking into account the particular circumstances of the application should be taken and the guidance in the NPPF. In line with guidance in the NPPF, appropriate mitigation and enhancement should be secured if planning permission is granted.

In this case the Council's Ecologist has examined the application and commented that he does not anticipate there being any significant ecological issues associated with the proposed development.

Drainage and Flooding

The applicant submitted a flood risk assessment with the previous application which indicated that the larger site, of which this application site was part of, is entirely located within areas defined as Flood Zone 1.

This zone is considered to be at low risk for flooding. As such, the development is considered not to create any significant flooding concerns.

United Utilities and the Environment Agency have been consulted on the application, but no response had been received at the time of report preparation. A further update on this matter will be provided to Members prior to their meeting.

Other Matters

As part of the assessment of the former planning application, Members also considered a consultation response to CWAC with regards to the knock-on effect of the housing upon Cheshire East infrastructure and facilities.

As part of this consultation request, a number of S106 requests were made. These included commuted sums for enhanced Open Space provision and maintenance (total: £50,319.03) and a £40,000 contribution towards the improvement of bus shelters, the provision of cycle stands and pedestrian and cycle facilities within Goostrey. These requests were not included in the CWAC S106 Agreement.

As the associated housing development has now been granted, repeat requests of this nature can now no longer be made. Furthermore, they cannot be made as part of this application as they are not fair and reasonable in relation to the development and therefore not CIL compliant.

CONCLUSIONS

The application site falls exclusively within the CEC boundary. The associated housing to which the access would be for lies within the CWAC boundary.

It was therefore for CWAC to determine whether or not to grant planning permission for the proposed dwellings and it was within the jurisdiction of CEC to grant or refuse planning permission for the associated access road.

CWAC resolved to approve the associated housing development subject to conditions and a S106 Agreement.

As this falls within the Settlement Zone Line, this aspect of the development is considered to be acceptable in principle, subject to its adherence with other Local Plan policies which are considered below.

With regards to the small 8 metre-squared parcel of land which falls outside of the applicant's residential curtilage, following the approval of the associated housing on this piece of land by CWAC, the impact of the change of use of this parcel to would not have a detrimental impact upon the openness of the countryside and as such, is deemed to be acceptable in principle.

Subject to a sympathetic landscaping scheme, tree protection and boundary treatment details being secured via condition, in conjunction with the fact that CWAC have resolved to approve the associated housing to the rear, it is not considered that this issue would be significant enough to warrant refusal of the application on design grounds.

Any potential impacts on amenity could also be adequately mitigated through the issue of appropriate tree protection, landscaping and boundary treatment conditions. The Council's

Ecologist determined that there will not be any significant ecological issues associated with the proposed development.

The proposal is not considered to have any adverse impacts in terms of drainage/flooding and it therefore complies with the relevant local plan policy requirements for residential environments.

A small number of trees would be affected by the development at the “pinchpoint” at the chicane on the proposed access road. However, this is a relatively short distance, the trees concerned are only “category C” trees and the number of trees affected would be small. There would also be opportunities for planting in mitigation and on this basis any impact on public visual amenity would be limited. Therefore, it is not considered that a refusal on tree grounds could be sustained.

The applicant has addressed the Strategic Highways Manager’s concerns regarding build-ability of the access road through the chicane. The proposal therefore adheres to Policy GR9 of the adopted Congleton Borough Local Plan First Review.

On the basis of the above, it is recommended that the application is approved subject to conditions.

RECOMMENDATION

APPROVE subject to the following conditions;

- 1. Time**
- 2. Plans**
- 3. Landscape (Details)**
- 4. Landscape (Implementation)**
- 5. Boundary treatment (details)**
- 6. Prior submission of detailed design and construction drawing for the new junction and access road**

In order to give proper effect to the Board`s/Committee`s intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chair (or in his absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

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