

Application No: **11/0217C**

Location: **Land adjacent 6 Heath End Road, Alsager**

Proposal: **Residential proposal for a single detached dwelling**

Applicant: **Mr A Girvin**

Expiry Date: **14th March 2011**

Ward: **Alsager Town**

Date Report Prepared: **4<sup>th</sup> March 2011**

### **SUMMARY RECOMMENDATION**

Approve subject to conditions and the completion of a Section 106 Agreement to ensure the future protection of Great Crested Newt habitat.

### **MAIN ISSUES**

- Principle of the development
- Layout and Scale
- Appearance
- Amenity
- Highways
- Ecology
- Trees and Landscape

### **REASON FOR REFERRAL**

Called in by Councillor D Hough on the grounds that “Concerns have been expressed over the size and scale of the development with a height of 7.1 metres and large footprint.”

### **DESCRIPTION AND SITE CONTEXT**

The application relates to an area of land approximately 0.3ha in size, situated between two residential properties. The site contains a wooded area with a pond, which has been identified as being a habitat containing Great Crested Newts. The eastern side of the site is a grassed area with open countryside to the north and residential properties to the east. The site also contains two mature Oak trees that are the subject of a Tree Preservation Order. The land is designated in the local plan as being within the settlement zone line of Alsager.

There have been several unsuccessful applications for residential development on this site, details of which are listed in the report.

## **DETAILS OF PROPOSAL**

The proposal is for the erection of one detached bungalow with a detached double garage, which would be sited on the grassed area of the site, with access being taken from Heath End Road. The dwelling would provide a lounge, dining room, kitchen and three bedrooms and would have a cream render finish with a stone plinth and a Staffordshire blue clay tile roof. It would be 27 metres wide, 16 metres deep at the widest point, with a roof height of 7.1 metres centrally and 6.1 metres at either end. The garage would be sited in the southeastern corner of the plot and would be 7.4 metres wide, 6 metres deep, with a roof height of 5.6 metres.

## **RELEVANT HISTORY**

27679/3	1996	Refusal for the erection of 7 dwellings
28018/3	1996	Refusal for the erection of 5 dwellings
31940/3	2000	Refusal for the erection of 5 dwellings
33264/3	2001	Refusal for the erection of 5 dwellings, appeal dismissed 2002
36593/3	2003	Refusal for the erection of 5 dwellings
08/1687/FUL	2009	Withdrawn application for the erection of 3 dwellings
10/0815C	2010	Withdrawn application for the erection of 2 dwellings

## **POLICIES**

### **National Guidance**

PPS1 – Delivering Sustainable Development  
PPS3 - Housing  
PPS9 – Biodiversity and Geological Conservation  
PPS25 – Development and Flood Risk

### **Regional Spatial Strategy**

Regional Spatial Strategies (RSS) were revoked by the Secretary of State for Communities and Local Government on 9 July 2010 under Section 79 (6) of the Local Democracy, Economic Development and Construction act 2009. However, the Regional Spatial Strategy for the North West has been reinstated (protem) as part of the statutory Development Plan by virtue of the High Court decision in the case of Cala Homes

(South) Limited and the Secretary of State for Communities and Local Government and Winchester City Council on 10 November 2010.

DP1 Spatial Principles

DP2 Promote Sustainable Communities

DP4 Making the Best Use of Existing Resources and Infrastructure

DP5 Manage Travel Demand: Reduce the Need to Travel, and Increase Accessibility

DP7 Promote Environmental Quality

DP9 Reduce Emissions and Adapt to Climate Change

RDF1 Spatial Priorities

L2 Understanding Housing Markets

L4 Regional Housing Provision

EM1 Integrated Enhancement and Protection of the Region's Environmental Assets

### **Congleton Borough Local Plan First Review 2005**

The site is not allocated in the Local Plan but the following policies apply:

PS4 – Towns

H1 & H2 – Provision of New Housing Development

H4 – Residential Development in Towns

GR1 – New Development

GR2 & GR3 – Design

GR6 – Amenity and Health

GR9 – Parking and Access

NR1 – Trees and Woodlands

NR2 – Wildlife and Nature Conservation

NR3 - Habitats

SPG2 – Provision of Private Open Space in New Residential Developments

SPD14 – Trees and Development

### **CONSIDERATIONS (External to Planning)**

#### **Environmental Health**

Recommend that conditions be imposed relating to land contamination and hours of construction and pile driving.

#### **Highways**

The Strategic Highways Manager recommends the following informative be attached to any permission which may be granted for the development proposal:

## **Informative**

The developer will enter into and sign a Section 184 Agreement under the Highways Act 1980, and a properly constructed vehicular crossing will be provided for the development in accordance with Highway Authority specifications.

## **VIEWS OF TOWN/PARISH COUNCIL**

No objections

## **OTHER REPRESENTATIONS**

At the time of report writing 18 letters objection have been received in relation to this application raising the following issues

- Highway safety
- Impact on protected trees
- Impact on Great Crested Newts
- Detrimental impact of construction vehicles
- Loss of privacy especially if additional windows are added in the roof
- Loss of the character of the area
- Increase in housing density of the area
- Change of use of the land to residential
- 'Garden grabbing'
- Excessive roof height and scale of the proposed bungalow
- Adverse impact on adjacent Willow crop

## **APPLICANT'S SUPPORTING INFORMATION**

- Design and Access Statement
- Supplementary Planning Statement
- Tree Survey Report
- Method Statement for Protection of Trees during Development
- Phase 1 Habitat and Ecological Survey Report
- Great Crested Newt Impact Assessment, Mitigation Strategy and Ecological Update
- Great Crested Newt Survey
- Phase 1 Habitat and Ecological Survey Report

## **OFFICER APPRAISAL**

### **Principle of Development**

The site is designated as being within the settlement zone line of Alsager and as such the presumption is in favour of development provided that it is in keeping with the town's scale and character and is appropriate to the character of its locality in terms of use, intensity, scale and appearance. On 9<sup>th</sup> June 2010 the Coalition Government amended PPS3. As a result garden land is now classed as Greenfield rather than Brownfield land. Nevertheless the application site is situated within the settlement zone line of Alsager as defined on the adopted Local Plan where there is a general presumption in favour of

new development as indicated by policy PS4 of that Plan. It is therefore considered that the erection of one bungalow on the site would comply with this requirement.

### **Layout and Scale**

The proposal is for a detached bungalow that would be sited in the northeastern part of the site. The surrounding development has varying layout patterns including semi-detached properties in a linear form and large detached dwellings set in substantial plots. Concerns have been expressed over the size of the proposed building, however it should be noted that there are dwellings of a similar size and larger in close proximity to the site and a variety of designs and property types in the general area. It is therefore considered that the proposed development would not be out of keeping with the character and appearance of the area. It is therefore considered that the layout and scale would be acceptable.

### **Appearance**

The proposal is for a bungalow that would be constructed of rendered blockwork with stone plinth details and window surrounds and Staffordshire Blue/black clay roof tiles, the windows would be hardwood. Overall given the variety of property designs in the vicinity of the site including bungalows and two-storey properties it is not considered that the design of the proposed dwelling would be out of keeping with the character of the area. Concerns have been raised over the height of the roof line of the dwelling, which would be 7.1 metres high at the ridge. This is considered to be somewhat high for a bungalow, but does not render the appearance of the building unacceptable and is only 0.1m higher than numbers 6 and 8 Heath End Road. As such in terms of appearance this is not considered to be a reasonable reason for refusal of the application.

### **Amenity**

There are four residential properties that share a boundary with the site, numbers 6 and 8 Heath End Road, number 21 Rydal Way and number 21 Pikemere Road and the impact on the amenities of these properties must be given careful consideration in the determination of this application. Number 8 Heath End Road would be in excess of 40 metres away from the proposed dwelling and it is therefore considered that there would not be an adverse impact on the residential amenities of this property. Having regard to number 6 Heath End Road, the nearest window facing this property would be in excess of 22 metres away and as such would meet the requirements of Supplementary Planning Document 2: Private Open Space. Number 21 Rydal Way would also be in excess of 22 metres away from the proposed new dwelling and having regard to this property, it is not considered that there would be any adverse impact on the amenities of its occupiers. The bungalow would be partly sited adjacent to the rear garden of 21 Pikemere Road, however given the length of this garden and the provision of suitable boundary treatments, it is not considered that there would be any significant adverse impact on the amenities of the occupiers of this property.

Letters of objection have been submitted expressing concerns regarding the height of the roof of the proposed bungalow, in particular the potential for development within the roof space that may impact on the privacy of neighbouring dwellings. Having regard to

this issue it is considered that although the proposed dwelling does meet the required separation distances, it is considered to be reasonable to impose a condition removing permitted development rights for alterations to the roof of the property. This is considered to be necessary in order to avoid the potential for the loss of privacy to the private amenity spaces of the neighbouring properties in the future.

## **Highways**

The Strategic Highways Manager has submitted no objections to this proposal on highway safety grounds, subject to a properly constructed vehicle crossing. It should be noted that a previous application was subject to appeal in 2002 (33264/3). This appeal was dismissed and one of the reasons given was that there would be an adverse impact on highway safety. However that proposal was for 5 dwellings and the Inspector emphasised that the number of dwellings proposed informed her decision, as such given that this proposal is only for 1 dwelling and in the absence of objections from the Strategic Highways Manager, it is considered that a refusal on these grounds would not be sustainable.

## **Ecology - Protected Species & Nature Conservation**

The site has been identified as containing a habitat for Great Crested Newts and reports have been submitted to inform assessment of this issue. The Nature Conservation Officer has visited the site and assessed the submitted reports. The conclusions drawn from this are that provided that the mitigation proposals are completed in full, adverse impacts on protected species will be negligible and in particular the viability of the Great Crested Newt population at the location should be sustainable. The habitat enhancements must however be secured for the longer term by completion of a Section 106 Agreement ensuring that the future management of this part of the site will be controlled.

### **EC Habitats Directive**

#### **Conservation (Natural Habitats &c.) Regulations 1994**

#### **PPS9 Biodiversity and Geological Conservation**

#### **ODPM Circular 06/2005**

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 by the Conservation (Natural Habitats etc) Regulations 1994 ("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.

Regulation 3(4) of the Regulations provides 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 paragraph 116 of PPS9. In line with guidance in PPS9, appropriate mitigation and enhancement should be secured if planning permission is granted.

In this case it is considered that there is no satisfactory alternative to the development and that without it the site could become derelict, which may lead to the loss of the habitat for Great Crested Newts. Therefore there would be public benefit derived from the retention and protection of this habitat.

### **Trees and Landscape**

There is an area of woodland and two trees subject to Tree Preservation Orders on the site and therefore an important issue relating to this application is the impact of the access road on these protected trees. The public inquiry that was held into a previous application (33264/3), concluded that a satisfactory method of construction could be achieved that would not adversely impact on the health of these trees. A Method Statement has been submitted with the application detailing proposed works to the trees, their protection during construction, and the specification for the driveway including special construction techniques. These are considered to be acceptable subject to the submission of some further details, which have been requested from the applicant. In the Supplementary Planning Statement it is stated that services can be routed within the curtilage of No 6 Heath End Road, however specific details were not submitted. At the time of report writing these details have not been received, however the applicant has agreed to provide them and an update on this will be provided in an update for the Committee. It is therefore considered that subject to the further information requested being satisfactory, that the development would not have any significant adverse impact on the protected trees. It is also considered necessary to impose conditions requiring submission of detailed landscape plans for the site.

## **CONCLUSIONS AND REASONS FOR THE DECISION**

In conclusion, the site is within the settlement zone line of Alsager in the adopted local plan and the proposed development complies with the relevant policies contained within that document. The proposal is of an appropriate scale and design and includes measures to ensure the continued viability of the habitat of Great Crested Newts. It is therefore recommended that the application be approved subject to the completion of a Section 106 Agreement ensuring the future management of the site will be controlled and subject to the following conditions:

**RECOMMENDATION:** Approve subject to the following conditions

1. Commence development within 3 years
2. Development in accordance with agreed drawings
3. Submission of details/samples of external materials
4. Submission of a Phase 1 land contamination survey
5. Limits on hours of construction
6. Limits on hours of piling
7. Submission of detailed landscaping scheme
8. Implementation of landscaping scheme
9. Submission and implementation of tree protection scheme
10. Compliance with the Method Statement for Protection of Tree During Development
11. Submission and implementation of surveys and mitigation methods for the protection of breeding birds
12. Submission and implementation of details of bat and bird boxes
13. Compliance with the Great Crested Newt Mitigation Strategy
14. Removal of permitted development rights for alterations to the roof



Location Plan: Cheshire East Council Licence No. 100049045



