

Application No: 14/2269C

Location: HEATHLANDS, LAND OFF HEATH END ROAD, ALSAGER, CHESHIRE

Proposal: Residential Proposal for a single detached dwelling

Applicant: Mr Adrian Girvin

Expiry Date: 27-Jun-2014

**SUMMARY RECOMMENDATION:** Approve subject to conditions.

**MAIN ISSUES:**

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

**REASON FOR REFERRAL**

Called in by Councillor R Fletcher on the grounds that:

*“Planning permission already exists for one dwelling on this site with details of protecting Great Crested Newts. One of the ponds appears to have been removed from this application.”*

**DESCRIPTION AND SITE CONTEXT**

The application relates to an area of land approximately 0.23ha in size, situated between two residential properties on Heath End Road, Alsager. 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. However Southern Planning Committee approved an application in March 2011 (11/0217C), for a detached bungalow with a detached double garage. This was subject to a Section 106 Agreement to ensure the protection of Great Crested Newts, which has now been completed. This permission is extant.

A subsequent application was submitted for a dwelling of a different design that also included a basement (11/3349C). Members will recall that they also resolved to approve this application subject to a Section 106 Agreement identical to that on the previous approval. The applicant has not entered into that agreement, therefore no decision has been issued and no consent exists.

## **DETAILS OF PROPOSAL**

This application proposes a two-storey dwelling with additional accommodation contained within the roof space. It would essentially be an 'L' shaped dwelling providing extensive accommodation including 6 bedrooms, 3 reception rooms an integral garage and a games room and cinema in the roof space.

Consistent with the previous schemes a designated ecological habitat area is included due to the presence of Great Crested Newts.

## **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
11/0217C	2011	Approval subject to s106 for bungalow and detached garage
11/3349C		Committee resolution to approve a detached dwelling with basement. (Section 106 Agreement not completed.)

## **POLICIES**

### **National Guidance**

## National Planning Policy Framework

### Local Policy

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 28<sup>th</sup> 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.

The relevant policies of the **Cheshire East Local Plan Strategy – Submission Version** are:

- SD 1 Sustainable Development in Cheshire East
- SD 2 Sustainable Development Principles
- SE 1 Design
- SE 2 Efficient Use of Land
- SE 3 Biodiversity and Geodiversity
- SE 4 The Landscape
- SE 5 Trees, Hedgerows and Woodland
- SE 9 Energy Efficient Development
- SE 12 Pollution, Land Contamination and Land Instability
- PG 1 Overall Development Strategy
- PG 2 Settlement Hierarchy
- PG5 Open Countryside
- EG1 Economic Prosperity

The relevant policies saved in the **Congleton Borough Local Plan First Review 2005** are:

- 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

### **Other Material Considerations**

BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations

The Conservation of Habitats and Species Regulations 2010 (as amended)

### **CONSULTATIONS (External to Planning)**

#### **Environmental Health:**

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

#### **Highways:**

This new access will require a properly constructed vehicular crossing which complies with Cheshire East Council authority standards.

The Strategic Highways Manager recommends that any planning permission which may be granted have the following informative attached:

*Informative:* Prior to first development the developer will enter into and sign a Section 184 Agreement with Cheshire East Highway Authority with regard to the construction of the new vehicular crossing.

#### **United Utilities:**

No objection.

#### **Natural England:**

No objection.

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

### **OTHER REPRESENTATIONS**

At the time of report writing approximately 6 letters of objection have been received in relation to this application raising the following issues:

- Creeping changes in the specification of the dwelling
- Increased height of the dwellings causing loss of outlook
- Rooms in the roof leading to loss of privacy
- Repositioned garage also leading to loss of outlook and privacy
- Outdated information relating to Great Crested Newts
- Adverse impact on Great Crested Newts
- Impact of the driveway on protected trees
- Highway safety
- Overdevelopment of the site
- Confusion over the splitting of the site with a garage on the plans but not form part of the application
- Drawings that do not show a scale
- Access on a dangerous bend
- Cheshire brick would be a more appropriate finish
- The proposed new pond from the previous application has not been included
- Incorrect ecological information on the website

In addition reports relating to trees and Great Crested Newts have been submitted by the occupiers of number 6 Heath End Road.

The local MP has also submitted representations on behalf of the occupiers of 6 Heath End Road. These express concerns about members of the public not being given time to assess information that has been included on the website, close to the original committee date of 2<sup>nd</sup> July. The application was deferred from that committee in order that officers, local residents and the Town Council could comment on and assess all the relevant information.

## **APPLICANT'S SUPPORTING INFORMATION**

- Design, Access and Planning Statement
- Tree Survey Report
- Great Crested Newt Impact Assessment, Mitigation Strategy and Ecological Update

## **OFFICER APPRAISAL**

### **Principle of Development**

#### **National Planning Policy Framework**

The National Planning Policy Framework states the following:

*“At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision taking.*

*For **decision taking** this means:*

- *Approving development proposals that accord with the development plan without delay; and*
- *Where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless:*
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in this Framework taken as a whole;*
  - or
  - *specific policies in this framework indicate development should be restricted*

The site is designated as being within Settlement Zone Line of Alsager and as such there is a general presumption in favour of development provided it is in keeping with the town's scale and character and does not conflict with other policies of the local plan.

This proposal is for a single, two-storey dwelling with an integral garage. In 2012, permission was granted for a detached bungalow with a detached garage on the site. In 2013 Southern Planning Committee resolved to approve an application for a detached bungalow with basement accommodation, also with a detached garage.

The principle of residential development on the site has therefore been established.

### **Layout and Scale**

This application comprises a substantial two-storey dwelling on an 'L' shaped footprint, in a similar position to the approved dwelling on the site. The dwelling would have two storeys whereas the previously approved scheme was for a bungalow. However, Heath End Road has a mix of dwelling types as does the nearby Pikemere Road. As such it is not considered that this form of development is inappropriate in this location.

Given the nature of the surrounding development it is 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 building that would be constructed of rendered blockwork with stone plinth details and window surrounds and Staffordshire Blue/black clay roof tiles. As stated previously, the proposal would create a dwelling with a substantial level of accommodation, however it is not considered that this would be out of character with the surrounding development.

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 building; however as stated above, it is not considered to be out of character with the surrounding development. 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 would be impacted by the proposed development, 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 38 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 28 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 29 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. There would be no windows directly facing other properties that would not meet the minimum separation distances required.

Having regard to the residential amenity of future occupiers of the proposed dwelling, there would be more than adequate space within the site for private amenity space and bin storage.

The proposal is therefore considered to be in compliance with Policy GR6 of the adopted local plan and acceptable in terms of residential amenity.

## **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.

The proposal is therefore considered to be acceptable in highway safety terms and in accordance with Policy GR9 of the adopted local plan.

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

### *Great Crested Newts*

Numerous ponds, many of which are garden ponds, are located within 250m of the proposed development. A number of Great Crested Newt surveys have been undertaken of these ponds over an extended time period, with the most recent surveys being undertaken of two of the ponds in 2014. These surveys have recorded Great Crested Newts as being present at a number of ponds.

One nearby garden pond which had previously been identified as supporting Great Crested Newts during an earlier survey currently holds no water and does not now function as a pond. This particular pond therefore now offers no opportunities for breeding Great Crested Newts.

A further garden pond has recently been identified by a local resident. This pond has been subject to a preliminary survey, which did not result in any evidence of Great Crested Newts being present, however the survey was a single visit only and so is insufficient to robustly establish the presence or likely absence of breeding Great Crested Newts. It is considered that, on balance, based on the small size of this pond and the level of survey work undertaken to date it is not reasonably likely that this pond supports a breeding population of Great Crested Newts and so no further surveys of this particular pond are required.

It is considered that the Council has sufficient information to conclude that the ponds surrounding the development support a medium sized metapopulation of Great Crested Newts.

The application site itself consists of very closely mown grassland which provides no opportunities for Great Crested Newts to shelter or hibernate. The grassland offers opportunities for foraging newts, however there is abundant similar habitat located around the development site and this minor loss would be compensated for through the proposed enhancements to the existing pond discussed below.

In the absence of mitigation the proposed development would pose the risk of disturbing, killing or injuring any Great Crested Newts that ventured onto the site during the construction phase. To mitigate this impact the applicant is proposing that the development be undertaken in accordance with a method statement of 'Reasonable Avoidance Measures' designed to address this risk.

It is considered that provided the proposed mitigation measures are implemented, the proposed development would be highly unlikely to result in a breach of the Habitat Regulations. Consequently, it is not necessary for the Council to have regard to the requirements of the Habitat Regulations during the determination of this application.

If planning consent is granted a condition should be imposed requiring development to proceed in strict accordance with the Mitigation and Compensation Strategy submitted with the application.

As part of the application a package of ecological enhancements are proposed which centre around the restoration and enhancement of the pond adjacent to the proposed development. It is considered that the proposed restoration of the pond has the potential to deliver significant ecological benefits. It is therefore recommended that the implementation of the proposed enhancement measures should be secured by condition in the event that planning consent is granted.

As Great Crested Newts may be present in the vicinity of the pond proposed for enhancement, there is a risk that they could be disturbed, killed or injured during the implementation of the enhancement works. To address this risk the applicant has proposed that the enhancements be undertaken under a method statement which includes the timing and supervision of the works. It is considered that if the enhancements works are undertaken in accordance with the submitted method statement the works would not be likely to result in an offence under the Habitat Regulations.

If planning consent is granted a condition must be attached to ensure the pond enhancement works proceed in strict accordance with the submitted Great Crested Newt (GCN) Method Statement for Pond Enhancement Works produced by UES dated July 2014.

It is also recommended that the condition specifies a trigger for when the habitat restoration and enhancement works should be completed; this should be prior to first occupation of the dwelling. The Council's Principal Nature Conservation Officer should inspect the works when completed before the Local Planning Authority discharge the condition.

In order to secure the long term viability of the enhanced pond it is recommended, that if planning consent is granted, a condition be attached to secure the submission and implementation of a long term habitat management plan for the enhanced pond and the retained and enhanced areas of habitat around the development site.

In accordance with Natural England's standing advice it is recommended that if consent is granted, an informative should be attached advising the applicant that in the event that Great Crested Newts are unexpectedly encountered during works, that they should cease immediately and further advice be sought from an appropriately licensed ecologist or Natural England.

#### *Previous Applications*

As discussed in this report, two applications have been accepted on the site, albeit that one does not yet have a decision. At the time that these decisions were taken, the Council considered that the long term habitat management plan should be secured for a period of 80 years by Section 106 Agreement.

Since these decisions were considered, an application was refused, taken to appeal and subsequently quashed (12/4872C). That site is immediately to the rear of the application site and the proposal was for a development of up to 155 houses. As with this application, Great Crested Newts are a constraint on the site. During the appeal process, it was agreed in the statement of common ground, that a long term management plan could be secured by condition for a period of 10 years. In the light of this it is considered that the Council should apply the same approach to this application. Especially as this application relates to only a single dwelling.

Having regard to the application that Committee resolved to approve, subject a legal agreement in May 2013 (11/3349C), it is considered that this should be brought back to committee in order that a similar approach can be taken as has been set out above. As such that application also forms part of this agenda.

#### *Reptiles and common toad*

Grass snakes have previously been recorded on site. Whilst detailed reptile surveys undertaken on land to the north of the application site did not record any evidence of reptiles it is considered that there remains the possibility that grass snakes may still occur within the broader locality of the application site. Similarly, considering the number of ponds in the broad locality there is also the possibility that common toad may occur. The footprint of the proposed development however; offers negligible habitat for reptile species and minimal opportunities for common toad.

It is considered that the proposed development poses a minimal risk to reptiles and Common Toad and the submitted Great Crested Newt mitigation would also further reduce the risk posed to these species.

#### *Breeding Birds*

If planning consent is granted it is recommended that standard conditions should be imposed to safeguard breeding birds.

#### *Bats*

Two mature oak trees on site will be subject to crown lifting works as part of the proposed development. These trees have potential to support roosting bats. However, based on advice from the Council's Principal Forestry and Arboricultural Officer, it is considered that the level of works anticipated to the trees would not be reasonably likely to result in any significant risk to roosting bats. No offence in respect of roosting bat is therefore likely to occur.

If consent is granted, additional provision for bats could be provided as part of the proposed development. This matter should be dealt with by means of a condition.

#### *Hedgerows*

Hedgerows are a UK Biodiversity Action Plan priority habitat and hence a material consideration. A hedgerow located on the north western boundary of the application located between the grassland areas of the application site and the adjacent retained habitat area has been identified as being species rich. This hedgerow will be removed as part of the development, however this is part of the wider ecological enhancements to the pond and as such is considered to be acceptable.

Councillor Fletcher called the application in because this proposal does not include the new pond that formed part of the last two applications. However this application would include the enlargement and restoration of the existing pond, which is considered to deliver significant ecological benefits.

### **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.

This application provides the same private driveway configuration as the two previously approved applications 11/0217C and 11/3349C (decision not yet issued). The submission is for a similar sized dwelling than that submitted under 11/3349C without the provision of a basement.

A Tree Survey Report has been submitted in support of this current application which is broadly in line with the current *British Standard BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations*.

The application proposes the same access route as the previously approved applications and in respect of the two protected Oak trees, (T2 and T3) officers are satisfied that there would be no greater impact taking into account the requirements of BS5837:2012.

The driveway and other aspects of tree protection/landscaping can satisfactorily be dealt with by the imposition of conditions.

### **Other Matters**

It should be noted that there is a separate application for a garage and greenhouse adjacent to the application site (14/3152C). The applicant has not clearly indicated which property this would be linked to and objectors have expressed concerns about this. However this proposal should be judged on its own merits.

### **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. It also complies with the requirements of policies contained within the Cheshire East Development Strategy – Submission Version and the NPPF. 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 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 piling**
- 6. Submission of detailed landscaping scheme**
- 7. Implementation of landscaping scheme**
- 8. Tree retention**
- 9. Submission and implementation of tree protection scheme**
- 10. Construction Specification/Method Statement (driveway)**
- 11. Arboricultural Method Statement**
- 12. Implementation of Great Crested Newt Reasonable Avoidance Measures during the construction phase**
- 13. Implementation and completion of pond restoration proposals to the satisfaction of the Council prior to first occupation of the dwelling**
- 14. Submission and implementation of a Habitat Management Plan for a period of 10 years**
- 15. Submission and implementation of details of bat and bird boxes**
- 16. Safeguarding of breeding birds**
- 17. Compliance with the Great Crested Newt Mitigation Strategy**
- 18. Submission and implementation of detailed drainage scheme**

**In order to give proper effect to the 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/her 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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