

Application No: 19/1955M

Location: LAND ADJACENT TO WITHINLEE HOLLOW, WITHINLEE ROAD, PRESTBURY, SK10 4AT

Proposal: Erection of a dwelling house with associated works including landscaping

Applicant: Mr Peter Busby

Expiry Date: 13-Sep-2019

### **SUMMARY**

Planning permission was previously refused for two reasons: 1. Conflict with policies H12 and BE1 and 2. Concerns that the development would have an adverse impact on highway safety.

With the subsequent appeal, the Inspector found the development to be acceptable in terms of highway safety. However, the development was found to be unacceptable in terms of its impact on the surrounding area. The current proposal is considered to adequately address this issue.

The proposal would provide a single dwelling within a reasonably sustainable location. Whilst the site area would fall below the minimum standards of 0.4ha stated within policy H12, this figure should not be applied rigidly.

The revised scheme has reduced the footprint and spread of development. The proposed dwelling would on balance reflect the spacious character of properties within the surrounding area and would not appear unduly prominent from the wider site.

The Highway Authority has not raised any objections to the proposal. Subject to conditions, the proposal would have an acceptable relationship with the trees adjacent to the site boundaries.

### **SUMMARY RECOMMENDATION**

Approve subject to conditions

### **REASON FOR REPORT**

The application has been called to Committee by the local Ward Member, Cllr Findlow for the following reasons:

*“Extensive concerns expressed locally relating to:*

- 1.the inadequate restricted plot size for the scale and mass of the proposed dwelling, on this wet, boggy site which requires stabilisation not significant earthworks.*
- 2.contrary to policy H12, Low Density Housing Area, which requires plot sizes to be 1acre/0.4hectare, and the proposal is some one quarter less, changing the required housing density factor.*
- 3.the planning Inspector for the last dismissed application concluded it “would have a detrimental effect on the character and appearance of the area.”*
- 4.the deleterious impact on “the desirability of maintaining an area’s prevailing character and setting.” (NPPF)*
- 5.the cumulative impact of instances of not abiding by policy H12, causing irrevocable harm to the immediate and wider area.*
- 6.the unacceptable visual impact, given the increased height level compared with the dismissed appeal proposal.*
- 7.excessive physical scale and form, and incompatibility with the generous space and privacy standards prevalent in the area.*
- 8.adverse consequences on the existing trees/protected trees, resulting in overshadowing given the proximity of the proposed dwelling to existing trees on the boundary.*
- 9.highway access issues onto Withinlee Road, and a shared driveway unsuitable for increased traffic volumes.”*

## **DESCRIPTION OF SITE AND CONTEXT**

The application site lies within a predominately residential area of Prestbury. The area is also classed as a Low Density Housing Area, and the site borders an Area of Special County value and Green Belt as identified in the MBLP.

There are protected trees along the Southern boundary of the site and at the entrance to the access road (TPO reference numbers: 28-005 and 39-024).

## **DETAILS OF PROPOSAL**

The application seeks full planning permission for the construction of a detached dwelling on the existing paddock. The house would be laid out over 3 levels with the lower ground floor partially submerged.

## **RELEVANT PLANNING HISTORY**

15/1886M - The erection of a single contemporary two-storey 4-bedroom dwelling – Refused 10.05.2016; Appeal dismissed 02.12.2016

14/3658M – The erection of a single contemporary 2 storey 4 bedroom dwelling - Withdrawn 11.11.2014

14/2837M – Outline application for erection of a single contemporary two storey 4/5 bedroom dwelling – Withdrawn 21.07.2014

12/0309M – Demolition of Existing house. Construction of Replacement Dwelling House. Resubmission of 11/2386M - Approved 16.03.2012

11/2386M – Replacement of existing dwelling  
Withdrawn 09.09.2011

## **POLICIES**

### Cheshire East Local Plan Strategy (CELPS)

MP 1 – Presumption in Favour of Sustainable Development  
PG 2- Settlement Hierarchy  
SD 1 – Sustainable Development in Cheshire East  
SD 2 – Sustainable Development Principles  
IN 2 – Developer Contributions  
SE 1 – Design  
SE 2 – Efficient Use of Land  
SE 3 – Biodiversity and Geodiversity  
SE 5 – Trees, Hedgerows and Woodland  
SE 13 – Flood Risk and Water Management  
CO 1 – Sustainable Travel and Transport

### Macclesfield Borough Local Plan (MBLP)

H12 – Low Density Housing Areas  
DC3 – Design – Amenity  
DC6 – Design – Circulation and Access  
DC9 – Design – Tree Protection

## **Other Material Policy Considerations**

### National Planning Policy Framework (NPPF 2019)

Chapter 12 – Achieving well-designed places  
Chapter 15 – Protecting the natural environment

## **CONSULTATIONS (EXTERNAL TO PLANNING)**

Environmental Health – No objections subject to conditions relating to hours of construction works, pilling, contamination and the provision of electric vehicle infrastructure.

United Utilities – No objections

Strategic Infrastructure Manager – No objections

Prestbury Amenity Society - Objection: the modifications have reduced the plot size; reduction in vehicle access and removal of TPO trees. Unsympathetic treatment of the surrounding area and is unneighbourly. Object strongly to changes - the proposal does not align with policy H12.

Prestbury Parish Council – Object on the following grounds:

*30 August 2019*

Re-assert the objections of 16 May 2019. See below summary.

*31 July 2019*

The revised plans show minimal change with an increase in height of roof ridge, increasing the effect of the mass. The strong objections remain unchanged.

*16 May 2019*

The plot is not of a size that can accommodate such a large property and vehicular access may present an issue.

Policy H12 is considered of upmost importance in safeguarding the character of Prestbury. Due regard should be had to this policy. The application does not meet this policy.

Proposal is not sympathetic to the character of the established residential area, taking into account its physical scale and form. The plot width and space between the sides of the dwelling does not appear to be commensurate with the surrounding area and high standards of space and privacy have not been maintained.

Existing tree and ground cover should be retained in line with Policy H12.

The plot would be 25% smaller than the 0.4ha recommended by H12, thus considerably altering the density of housing in the area and supporting an existing unwelcome precedent.

The low density high quality characters of the established residential areas are currently under serious threat in Prestbury. Planner should work to help safeguard Prestbury and its character for future generations.

Cumulatively, developments not aligned to the H12 Policy can cause irrevocable harm to the existing high quality residential areas and the Parish Council object in the strongest possible terms.

## **REPRESENTATIONS**

### **Initial consultation responses**

11 representations and a petition signed by 16 residents were received. The main points are summarised as follows:

#### *Principle of development*

- Policy H12 requires a plot close to 0.4ha. The site is smaller than the dismissed scheme and more restricted. It should be refused for the same reason.

#### *Character and appearance*

- The proposed dwelling would be 4.5m higher than the dismissed scheme and would be much more visually intrusive
- It would be for a much bigger and more intrusive house on a smaller plot and would not reflect the landscape setting of adjacent properties
- Bulk, massing and height of the scheme mean it would have a significantly greater visual impact on the surrounding area.
- Design of the house is not compatible with surrounding house
- House much larger than the existing bungalow on the plot

#### Neighbour Amenities

- Development would overlook windows and balcony of Withinlee Court
- Adverse visual impact on Withinlee Court and Clover Heights
- Too close to the boundary with Withinlee

#### Impact on Trees

- The house is closer to protected trees, which would be significantly affected by the works. All affected trees should be subject to TPOs and protected in accordance with BS5837:2012 during and after construction

#### Highway safety

- Existing access is narrow and does not allow for turning
- The figures used by the Inspector to calculate vehicle movements were unsafe. A more recent survey suggested different levels of vehicle movement. The Highway Officer should reconsider the projected level of traffic movement and the impact on highway safety

#### Inaccuracies/omissions

- Errors within the application form regarding the amount of the site covered by built form.
- The information regarding the size of the site is misleading
- Significant level changes on the site. No cross sections have been provided to show how these levels impact the development.

#### Housing supply

- At the time of the appeal, the Council was unable to demonstrate a 5 year supply of housing land. The most recent update showed the Council had a deliverable housing supply of 7.2years. As the supply of housing is up to date, no weight can be given to the provision of a single house on an unsustainable site.
- Much of the demand for housing in Prestbury is shown to be met within the draft local plan. The proposal would do little to help meet this draft housing target

#### Other matters

- Alternative access needs to be provided to the field beyond. Field access needs to be maintained.
- New local plan policies can only be afforded limited weight
- Development could set a precedent for development of other plots in the area.

## **Second consultation**

A further five representations were received on the additional plans and agent's letter. The main points are summarised as follows:

### Character and appearance

- Comparative figures omit key information regarding floor space, volume and height, which would show the development to have a more detrimental impact on the site

### Highway safety

- Inspector was misled in previous application with regards to the highway data. Surveys were carried out by both Cheshire East and the owners of Withinlee Court. Many of the vehicle movements were incorrectly attributed to the Horse Charity on the site, rather than Withinlee Court. This impacted on the accuracy of the information presented to the Inspector

### Impact on trees

- No reference to tree protection along the access. Previously suggested condition, should apply again
- Development would adversely affect the trees adjacent to the site boundaries, even if all the protection measures are put into practice.
- Limited information on relationship between house and trees
- Provided cross sections do not contain information regarding the impact of earthworks on the root protection areas.

### Neighbour amenity

- Higher amenity standards set out in policy DC41 should be met, rather than the minimum standards of policy DC38.

### Housing supply

- Development would not help meet the future housing need of Prestbury

### Inaccuracies/omissions

- Additional information has not addressed the 4.5m increase in height
- Existing discrepancies have not been addressed.

### Other matters

- Insufficient time given to neighbours to comment, given the amount of time given to the applicant
- Significant differences between the cases referred to by the applicant and the current proposal
- Additional plans do not overcome the issues raised previously

### **Third consultation**

A further six representations were received on the amended plans. The main points are summarised as follows:

#### Principle of development

- Proposal would not comply with policy H12

#### Drainage

- Drainage a problem in the area due to clay soils. The drainage is not adequate; it is unclear how soakaways would work
- Environment Agency should be consulted on the development on proposed drainage and septic tank
- Concerns regarding the suitability of the site for a septic tank and soakaways

#### Trees/highways

- Issues with trees and highways have not been overcome
- No protection proposed for trees along the access road
- Concerns regarding highway safety and field access

#### Neighbour amenity

- Concerns regarding the windows which would face over Clover Heights

#### Other matters

- Inaccuracies and omissions with regards to the height of the proposed dwelling
- Conditions should be imposed to protect entrance way trees during construction
- Proposed dwelling would have a greater impact on the surrounding area than the refused scheme
- Inaccuracies between the location plan and the arboricultural plans.

### **OFFICER APPRAISAL**

#### **Principle of development**

The site lies within a predominately residential area in Prestbury. Prestbury is identified as a local service centre within CELPS policy PG 2. This policy confirms that within Prestbury

small scale development to meet needs and priorities will be supported where they contribute to the creation and maintenance of sustainable communities.

The site lies within a low density housing area, where policy H12 applies. This policy states that new housing development will not normally be permitted, unless certain criteria are met. Amongst other matters, it states that within Prestbury, both the new housing plot and the remaining plot should be approximately 0.4ha.

This saved policy forms part of the adopted plan and as such should be given full weight. There is no equivalent of policy H12 brought forward into the emerging local plan. The draft plan is currently undergoing its second round of consultation. It can only be attributed limited weight at this stage. It does however indicate the general direction of travel.

The submitted location plan indicates that the proposed dwelling would have a site area of 0.23ha, excluding the driveway. The area of land remaining to Withinlee Hollow would extend to over 0.4ha. As such, the plot available to the proposed dwelling would fall short of the minimum size set out within policy H12.

That being said, in dismissing the appeal for application 15/1886M, the Inspector concluded that plot size is only one part of the assessment. They concluded that the 0.4ha referred to in this policy should not be applied rigidly.

There have been no changes to planning policy or site circumstances, which would warrant policy H12 being applied differently in this instance. The fact that the site does not meet the minimum plot size of 0.4ha is not in itself a reason to warrant a refusal of planning permission.

### **Character and appearance**

CELPs policy SE 1 states that development proposals should make a positive contribution to their surroundings. It seeks to ensure design solutions achieve a sense of place by protecting and enhance the quality, distinctiveness and character of settlements.

Amongst other criteria, policy SD2 of the CELPS also expects all development to contribute positively to an area's character and identity, creating or reinforcing local distinctiveness in terms of:

- a. Height, scale, form and grouping;
- b. Choice of materials;
- c. External design features;
- d. Massing of development - the balance between built form and green/public spaces;
- e. Green infrastructure; and
- f. Relationship to neighbouring properties, street scene and the wider neighbourhood

Saved policy H12 of the MBLP states that within low density housing areas, proposals should be sympathetic to the character of the established residential area. It also advises that the plot width and space between the sides of housing should be commensurate with the surrounding area.

In the dismissed appeal, the Inspector raised concerns over the extent of plot coverage in terms of the building, driveway, garage and courtyard areas. They concluded that as a



result, the proposal would not share the spacious landscape setting of its immediate neighbours and in this respect would harm local character.

The revised scheme has reduced the overall coverage of the site. The submitted plans indicate that the building's footprint has been reduced from 433sqm to 276sqm, which equates to a reduction of 36%. The overall coverage of buildings and driveway has been reduced from 641sqm to 397sqm. This equates to a reduction of around 38%.

The building would be located on the northern part of the site, with the southern portion remaining clear of development. This reduction in footprint and leaving the driveway unchanged has significantly reduced the extent of the plot covered by built form and hardstanding

However, footprint is not the only consideration, affecting how a development sits within its surroundings. The height and architectural design of the scheme are also important in ensuring that a development assimilates into its surroundings.

The dismissed scheme was for a flat-roofed two storey building. This design helped to keep the height down however, it resulted in an increase in mass. Whilst the Inspector acknowledged the modern architectural style was different to others within the area, they did not raise any objections to its height or design.

The current proposal has a more traditional appearance, with a dual-pitched gabled roof form, which picks up on architectural features within the surrounding area. It also includes some modern elements such as the flat roof central gable projection and the mono-pitch linked garage. There is some variety in terms of architectural design within the local context. The design of the proposed dwelling is not objectionable in itself.

Sections and comparative elevations have been submitted as part of this application. The comparative elevations indicate that the overall height of the proposed dwelling would be increased by around 0.6m. However, these comparative elevations are based on the land being flat, which it is not. The proposed dwelling would be located at the northern end of the site, where land levels are higher. As such, the overall increase in height would appear greater, when viewed from Withinlee Hollow to the South.

Given the land levels, the proposed dwelling would not appear overly visible in views of the site. It would not be an unduly prominent feature. Whilst taller than the refused scheme, it would not be taller than the surrounding dwellings, other than Withinlee Hollow. In context, the height of the proposed dwelling would appear acceptable.

It is considered that whilst the site area does not comply with the minimum standards set out within policy H12, the development would appear suitably spacious and would satisfactorily reflect the character of the wider area. It would comply with the requirements of CELPS policies SD 2 and SE 1.

### **Neighbour amenity**

Paragraph 127f) of the NPPF 2019 states that developments should create a good standard of amenity for existing and future occupiers.

Saved MBLP policy DC3 states that development should not significantly injure the amenities of nearby residential properties. This includes as a result of privacy; overbearing effect and loss of sunlight and daylight. Saved MBLP policy DC38 sets out guidelines for space, light and privacy standards. Policy DC41 states that in areas within higher space, light and privacy standards than the minimum prescribed standards, new dwellings should meet the high local standards.

Concerns have been raised within the letters of representation regarding the impact on the neighbouring properties, in terms of loss of privacy and visual amenities.

*Withinlee Hollow (to south of site)*

Over 30m would remain between the proposed dwelling and the existing bungalow at Withinlee Hollow. Given the distance and angle between the properties, any loss of privacy would be minimal. The proposal would have an acceptable relationship with this neighbour.

*Withinlee Court (to west of site)*

Concerns have been raised that the proposed development would overlook the house, balcony and gardens of Withinlee Court.

The front elevation of the proposed development would face towards this neighbour. The proposed house would be set off the boundary and would be separated from this neighbour by the private drive. The proposed house would also be at a lower ground level than this neighbour.

There would be over 30m between the built form of the proposed dwelling and the built form of Withinlee Court. This would be sufficient to prevent any issues of overlooking or loss of visual amenities.

*Withinlee (to east of site)*

The proposed dwelling would be set off the boundary with this neighbour by around 12m. A distance of over 40m would remain between the built form of Withinlee and the new dwelling. The relationship between these two properties would be acceptable.

*Clover Heights & Withinlee Cottage (to north of site)*

Excluding the linked garage, the main bulk of the two storey dwelling would be set off the northern boundary by around 20m. This distance of separation would be sufficient to prevent the proposed dwelling appearing unduly overbearing when viewed from these properties.

A side window is shown serving the first floor windows. This window is shown to be 2m above finished floor level; therefore it would not result in any overlooking.

The proposed development would have an acceptable relationship with these neighbours in accordance with policies DC3 and DC38 of the MBLP.

## **Highways**

CELPs policy CO 1 deals with sustainable travel and transport. It supports a shift from car travel to public transport and seeks to guide development to sustainable and accessible locations.

As a local service centre, it is accepted that Prestbury is a suitably accessible and sustainable location for an additional dwelling.

The appeal site would be accessed via the private driveway, which serves Withinlee Hollow and also Withinlee Court. The driveway is around 80m in length before reaching the gated entrances of both Withinlee Court and Withinlee Hollow. It has a good surface, is of reasonable width, and is well maintained with mature shrubs on either side.

With the dismissed appeal, the Inspector accepted that the existing access did not meet minimum visibility splays. However, they concluded that the development would not intensify the use of the access driveway and would not adversely affect highway safety in the vicinity of the site.

The proposal is for a single dwelling, as per the dismissed appeal. Therefore, there is no reason to come to a different conclusion regarding highway safety in this case.

The Strategic Infrastructure Manager has confirmed that no objections can be raised on highway grounds, given the appeal decision.

The plans indicate two garage spaces and a further two spaces on the drive. Appendix C of the CELPS requires 3 spaces for houses with 4/5+ bedrooms. Sufficient off-street parking would be provided, in line with these standards. A condition is recommended requiring the provision of parking areas prior to first occupation.

The proposal would comply with CELPS policy CO 1 and MBLP policy DC6.

## **Trees**

CELPs policy SE 5 deals with trees, hedgerows and woodland. It states that the local planning authority will not normally permit developments, which result in the loss of or threat to trees which make a significant contribution to amenity, biodiversity and landscape character.

Saved MBLP policy DC9 relates to tree protection. It advises that developments which would result in the loss of or threat to protected trees will not be allowed, except in certain circumstances.

There are trees along the site boundaries. There is a group of protected Oak and Ash along the Southern boundary of the site (TPO number: 39-024). There are more protected trees along the site entrance (TPO number: 28-005). The trees along the other boundaries are not protected. However many are of amenity value, making a positive contribution to the green character of the wider area.

The applicant has submitted an Arboricultural Implications Assessment as part of their application, along with site sections. The Council's Forestry Officer initially raised concerns that the impact of the development on the protected and trees of amenity value had not been fully considered.

Following, on from the submission of further information, the Forestry Officer removed their objection. The proposed plans show no level changes within the root protection areas of the retained trees. While tree losses were greater than the 2015 application, the trees to be removed are low (c) category specimens or unsuitable for retention (U category) due to arboricultural defects.

Concerns have been raised by third parties regarding the impact of the development on the protected trees along the entrance. With the previous scheme, a condition was recommended regarding protection measures for these trees along the entrance. Such a condition is again recommended for this current application.

Subject to a condition requiring the works to be carried out in accordance with the submitted arboricultural implications Assessment, Method Statement and Tree Protection Plan, the development would have an acceptable relationship with the trees on the site. The development would comply with CELPS policy SE 5 and MBLP policy DC9.

#### Impact of trees on living conditions

Concerns have been raised regarding the relationship between the proposed dwelling and the boundary trees, particularly in terms outlook and light.

The most affected windows are along the eastern elevation. Bedrooms 4 and 5 would have their sole outlook towards the trees along the boundary. However, they would also be served by a lightwell, to give additional light. Given that these are partially subterranean rooms, they are considered to be acceptable.

At ground floor level, the main living space is dual aspect, with the remaining windows along the eastern elevation, serving non-habitable rooms.

On the upper floor, bedroom 3 would also have a high level window along the northern elevation, ensuring adequate light. As with the ground floor, the remaining windows would serve either non-habitable rooms or be secondary windows to these rooms.

The garden is of a sufficient size, with areas that would be unaffected by trees.

It is considered that the living environment for the proposed dwelling would be acceptable in accordance with paragraph 127f) of the NPPF.

#### **Nature Conservation**

Policy SE 3 deals with biodiversity and geodiversity, and the application is supported by an Ecological Survey Report. The application has been reviewed by the Council's Nature Conservation Officer. They have advised that if planning permission is granted, conditions should be imposed to protect breeding birds, provide ecological enhancements within the

building and provide a lighting scheme to prevent any light spill onto features which could be used by bats, such as hedgerows, trees and watercourses.

## **Housing supply**

At the time of the appeal, the local planning authority was not able to demonstrate a five year supply of housing land. The Inspector gave moderate weight to the provision of an additional dwelling, in what they considered to be a reasonably sustainable location.

The Council can now demonstrate a five year housing land supply. Nevertheless, the proposal would still create an additional residential unit in what is a reasonably sustainable location. This carries some weight in favour of the development.

## **Other matters**

Concerns have been raised regarding drainage on the site. The application site lies in flood zone one. However, the matter has been passed onto the Council's Flood Risk Team, and further details will be provided as an update.

Environmental Health have suggested conditions relating to working hours and piling works. As these matters are covered by other legislation, they are not normally conditioned. Instead informatives are recommended, advising the applicant of appropriate working hours.

## **Conclusions**

The proposal would provide a single dwelling within a reasonably sustainable location. Whilst the site area would fall below the minimum standards of 0.4ha stated within policy H12, this figure should not be applied rigidly.

The proposed dwelling would on balance reflect the spacious character of properties within the surrounding area and would not appear unduly prominent from the wider site.

Subject to the following conditions, the proposal would be acceptable in all other regards. A recommendation of approval is therefore made, subject to conditions.

1. Three year timeframe
2. In accordance with the approved plans
3. Details of materials
4. Surface water drainage scheme to be submitted
5. Works in accordance with the approved arboricultural information
6. Tree protection during construction works
7. Provision of parking areas
8. Lighting scheme to be submitted
9. Nesting bird survey to be submitted
10. Details of ecological enhancements to be submitted
11. Electric Vehicle Infrastructure
12. Gas Protection Measures

### 13. Contamination found during works

