

Application No: 20/4779C  
Location: 29, Teddy Gray Avenue, Sandbach, CW11 3AR.  
Proposal: Change of use of land to residential garden  
Applicant: Mr Ian Windmill  
Expiry Date: 01-Feb-2021

## **SUMMARY**

The application is retrospective, and it is regrettable that vegetation was removed prior to submission of the application. When the vegetation was removed it exposed the properties and fencing on Teddy Gray Avenue and this was not acceptable. The vegetation has since regenerated and now provides an adequate level of screening to Moss Lane.

In terms of ecology, habitat was lost, but it was not optimum habitat due to debris within it. The vegetation has since regenerated and provides a satisfactory habitat. A condition is required for the provision of a bird box, which should have been provided by the original developer.

In terms of amenity, the fact that vegetation has regenerated means that adequate screening is provided between the properties on Teddy Gray Avenue and Moss Lane.

Whilst the development is contrary to Policy H17 of the CBLPFR, as the site is currently designated as being within Open Countryside. However it is included as being within the settlement boundary in the Site Allocations and Development Policies Document and on balance is considered to be acceptable.

## **RECOMMENDATION**

**Approve subject to Conditions**

## **REASON FOR REFERRAL**

This application is referred to Southern Planning Committee as it is very similar to application 20/4978C which is referred to committee at the request of Cllr Flavell.

## **DESCRIPTION OF SITE AND CONTEXT**

The application site comprises an area of land 10m wide and 6m deep to the west of the approved garden boundary of the property at 29 Teddy Gray Avenue.

It is currently designated as being within Open Countryside but has been put forward as being within the settlement boundary in the Site Allocations and Development Policies Document (revised publication 2020). The settlement boundary would be moved to the canal to the west of Moss Lane.

## **DETAILS OF PROPOSAL**

The application seeks retrospective planning permission for the change of use of the land to residential garden.

It is not known who actually owns the land and an advertisement has been placed in a local publication to inform any owners of the application. At this point nobody has come forward.

The applicant has enquired with the Council and the developer of the estate as to who has ownership and whether they would be able to purchase the land and has had no response from David Wilson Homes.

## **RELEVANT PLANNING HISTORY**

13/0456C - Amendment to application 11/3956C Replan 49 units, new access onto Moss Lane and redesign of the internal road layout – Approved 11<sup>th</sup> June 2013

11/3956C - Proposed Residential Development at Land off Moss Lane The Former Fodens Factory Site For 269 Dwellings and Associated Works – Approved 13<sup>th</sup> July 2012

## **POLICIES**

### **Congleton Borough Local Plan First Review (2005) (CBLPFR)**

PS8 - Open Countryside

GR6 – Amenity and health

H17 – Extension of Residential Curtilages into the Open Countryside or Green Belt

### **Cheshire East Local Plan Strategy March 2016 (CELPS)**

The following are considered relevant material considerations as indications of the emerging strategy:

MP1 - Presumption in favour of sustainable development

PG1 - Overall Development Strategy

PG6 – Open Countryside

PG7 - Spatial Distribution of Development

SD1 - Sustainable Development in Cheshire East

SD2 - Sustainable Development Principles

SE3 - Biodiversity and Geodiversity

SE9 - Energy Efficient Development

SE12 - Pollution, Land contamination and Land Instability

## **Sandbach Neighbourhood Development Plan (SNDP)**

PC1 – Areas of Separation

PC2 – Landscape Character

PC3 – Policy Boundary for Sandbach

PC4 – Biodiversity and Geodiversity

HC1 – Historic Environment

HC2 – Design and Layout

## **Other Material Considerations**

National Planning Policy Framework

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

**Sandbach Town Council:** Members OBJECT to this application due to the following reasons:

- This application sees an extension of the plot into open Countryside and beyond the edge of the Sandbach settlement boundary.
- Laurel hedges are for urban use, not rural, and so are not in keeping with the area. These should be removed with a suitable replacement reinstated.
- Members would strongly prefer that the land is returned back to nature with the planting appropriately restored.

As a result of the above, this application is in contravention of the following Planning policies: Cheshire East Local Plan Strategy Policy PG6 and Sandbach Neighbourhood Plan Policy PC3.

## **OTHER REPRESENTATIONS**

At the time of report writing 28 representations have been received relating to this application. These can be viewed in full on the Council website and express the following concerns:

### **Environmental**

- Adverse environmental impact
- Impact on wildlife corridor
- Removal of trees
- Removal of hedgerow and damage to UKBAP habitat
- Loss of amenity greenspace
- Majority of trees removed were healthy
- Adverse impact on protected species
- Bird boxes should have been installed
- Taken the town into the countryside
- Contrary to the Cheshire East Green Infrastructure Plan
- Inappropriate non-native planting
- Increase in flooding
- Planning conditions required the retention of the buffer
- Land contamination

## **Heritage**

- Impact on the canal conservation area
- Properties now clearly visible from the canal

## **Residential Amenity**

- Light pollution
- Noise pollution
- Loss of privacy

## **Other Matters**

- Sets a precedent for others to do this
- Should not have been done without permission
- The developer should have put in place plans to maintain the area
- Inaccuracies within the application
- Correct certificates and notifications have not been completed
- Done for personal gain
- Disregard for the planning system
- Unfair that they get the land for free

Seven of the submitted representations are in support of the application and make the following points:

- The land was overgrown with poor quality trees being overcome by ivy and was a dumping ground for rubbish
- The land was left in a disgraceful state by the developer
- More than 75% of what was there was dead or dying causing branches and debris to fall into gardens
- The area now has birds and other wildlife using it
- Area has been aesthetically improved

## **Principal of Development**

The site is currently designated as being within open countryside where Policy H17 of the CBLP requires that extensions to domestic curtilages should not be permitted unless the land is required to enable a minimum standard of residential amenity to be achieved. The sub-text goes on to explain that it is to avoid incremental encroachment of residential areas into open countryside and this is key to the determination of the application.

The issue here is that the land is to be included within the settlement boundary as set out in the Site Allocations and Development Policies Document (SADPD). Whilst this document has not yet been adopted, it is an important material planning consideration. Given that it is the intention of the Council to include the land within the settlement boundary, on balance, a refusal would be difficult to defend at appeal on the grounds of the development being contrary to Policy H17.

The application is retrospective and the fact that works have already been undertaken should not be seen as a fait accompli. However, it should be noted that carrying out works without planning

permission, whilst regrettable, is not an offence and the case must be judged on its merits. It therefore falls to be assessed in terms of harm caused by the works.

## **Ecology**

When the land was cleared it was not part of any planning application and this is regrettable. However as shown in photographs submitted with this application, the area was contaminated with debris from the former fencing to the Fodens site and other detritus and therefore was not optimal, although this does not excuse its removal. Since this was done the vegetation has regenerated and further planting has taken place and this does now provide a habitat for wildlife.

A condition was imposed on the original application (11/3956C), requiring bird boxes, three of which were supposed to be installed on trees on the boundary with Moss Lane. It appears that these were never installed by the developers

If planning permission is granted, a condition should be imposed requiring the provision of a bird box on the boundary with Moss Lane

## **Amenity**

Policy GR6 of the CBLPFR and Policy H2 of the SNDP require that development proposals should not have an unduly detrimental effect on neighbouring amenity through loss of privacy, loss of sunlight/daylight, visual intrusion, noise and disturbance and traffic generation.

When works were originally carried out, it is clear that the rear of the properties on Teddy Gray Avenue became very visible from Moss Lane and the canal, and had it been left like that it would have had an unacceptable impact of the visual amenity of the local area. However, the vegetation has now largely re-grown and regenerated and the properties will soon be well screened.

The development is therefore considered to be in compliance with Policies SD2 and SE1 of the CELPS.

## **Other Matters**

Many of the objections refer to the application being retrospective and the development therefore being illegal. It should be noted that although it is not ideal that it has happened in this way, it is not an offence to do this without planning permission and would only become so if enforcement action was taken and not complied with.

## **Conclusion**

The application is retrospective, and it is regrettable that vegetation was removed prior to submission of the application. When the vegetation was removed it exposed the properties and fencing on Teddy Gray Avenue and this was not acceptable. The vegetation has since regenerated and now provides an adequate level of screening to Moss Lane.

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## **RECOMMENDATIONS**

**APPROVE** subject to the following condition:

### **1. Provision of a bird box on the boundary with Moss Lane**

**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 Development Management, 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.**

