

Application No: 12/0305M

Location: LAND AT BROOK LANE, ALDERLEY EDGE, SK9 7RQ

Proposal: Certificate of Alternative Development ( Residential)

Applicant: Sir John De Trafford

Expiry Date: 08-May-2012

**SUMMARY RECOMMENDATION:**

**PART APPROVED PART REFUSED**

**MAIN ISSUES:**

**-What alternatives uses would be permitted in a “no scheme” world**

**DESCRIPTION OF SITE AND CONTEXT**

The former site measured 0.53ha and is triangular in shape. It comprised of a green field with a number of trees and hedgerows ('the Site'). The Site was immediately adjacent to existing residential development and part of the site lies within a predominantly residential area within the settlement boundary of Alderley Edge and part lies within the designated North Cheshire Green Belt.

**DETAILS OF PROPOSAL**

An application for a Certificate of Appropriate Development (CAAD) under S.17 of the Land and Compensation Act 19761 has been made by Sir John De Trafford for residential development. The supporting information suggests that up to 15 units could be accommodated on the site.

As background, on 6 November 2008 the former Cheshire County Council ('the Council') exercised its powers to acquire the Site pursuant to Compulsory Purchase Order (CPO) to enable the construction of the A34 Alderley Edge and Nether Alderley Bypass. The bypass has been constructed and is in current use.

The Site in question is utilised for landscaping and protected species mitigation.

The purpose of this certificate is to provide valuers and the Lands Tribunal with guidance on the fair market value of the Site acquired by the Council with compulsory purchase powers.

In accordance with the Land Compensation Act, the Local Planning Authority (LPA) is required to certify the alternative development (if any) for which planning permission would have been granted in a hypothetical terms of a "no scheme world". In other words *'if it were not proposed to be acquired by an authority possessing compulsory purchase powers'*. In this case, if the land in question had not been acquired by the Council, would planning permission be granted for the development.

This certificate relates to residential development.

The LPA must consider the application against the planning considerations relevant at the date when the interest in land was acquired by an authority with its compulsory purchase powers. In this case, the relevant date is 6<sup>th</sup> November 2008.

### **Planning History**

5/03/1846P Alderley Edge bypass approved December 2003

No other applications relevant to the proposals.

### **POLICIES**

The certificate is assessed against the situation as it stood at the date when the acquisition process began.

### **Regional Spatial Strategy**

The Government revoked the North West Regional Spatial Strategy on the 6th July 2010. However, a High Court decision reinstated it on 10th November 2010 and it still forms part of the statutory development plan under the Planning and Compulsory Purchase Act 2004. The Government has since reconfirmed its intention to abolish Regional Strategies following a review of the sustainability implications of doing so. However for the purposes of this certificate, the policies within the RSS comprised part of the Development Plan as the Regional Spatial Strategy for the North West of England (the RSS) was published on 30 September 2008.

The relevant policies are as follows:-

DP1 Spatial Principles  
DP7 Promote Environmental Quality  
RDF4 Green Belts  
L4 Regional Housing Provision

### **Local Plan Policy**

The following saved policies within the Local Plan are of relevance:

NE11 Nature Conservation

GC1 Green Belts – New Buildings  
H1 Phasing Policy  
H2 Environmental Quality in Housing Developments  
H4 Housing Sites in Urban Areas  
H5 Windfall Housing Sites  
DC3 Amenity  
DC6 Circulation and Access  
DC8 Landscaping  
DC38 Space, Light and Privacy

### **Material Considerations**

PPS3: Housing  
PPG2 Green Belts  
PPG24 Planning and Noise  
PPS3 Housing and Saved Policies Advice Note

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

#### **Strategic Highways Manager:-**

A potential site access to this land could have been achieved that would have had the capability of serving a number of properties.

However, as the construction of the Alderley Edge by-pass has taken place access to the site is severely limited.

#### **Environmental Health:-**

If the use of the land was considered to be appropriate for residential development, then a full acoustic assessment / report should have been submitted as part of the application to detail the noise impact from traffic noise on proposed housing / future residents on the land - as per the requirements of Planning Process Guidance 24 (PPG 24). The report should have included proposed noise mitigation methods if applicable.

### **REPRESENTATIONS**

Letters of objection from 3, 6 and 7 Aldford Place on the following grounds:

- The contours of this site and impact it will have on access/egress to the surrounding properties makes this plot an inappropriate location for such a development.
- The land to the rear of all properties has been built up to create a mound to reduce the impact of noise pollution from the adjacent New A34 Bypass and not suitable for development
- The land has been landscaped in accordance with residents demands to further mitigate noise pollution from the New A34 Bypass

- Any proposed residential development would be intrusive and an invasion of privacy for the residents of Aldford Place
- The Land is occupied by an active habitat for protected species which residents have taken great care to work with Cheshire East & Birse during the construction of the A34 Bypass to maintain and provide access to their natural environment.
- Cheshire East would be in breach of their obligations to residents if the contours of this land were to be changed
- I understand this land is designated Green Belt. Therefore how can application for residential dwellings be approved?
- Plan submitted is out of date and does not include the Alderley Edge Bypass which runs straight through the land in question and the rebuilt Brook Lane which now takes in some of the land shown in the plan.
- Do not think that there is sufficient room or access for even a small bungalow.
- Site would be a wholly unsuitable development for the area

## **OFFICER APPRAISAL**

The Certificate is to provide the landowner with a basis for a valuation of the land in the event that the land serving Alderley Edge Bypass had not been acquired

The Land Compensation Act 1961(as amended) provides procedures for assessing compensation for the compulsory purchase of land.

Applications and appeals must be decided against the background of a hypothetical "no scheme" world. This means that, in determining the market value, the decision must take into account whether or not the suggested development is acceptable in the "no scheme". The decision maker (LPA or Secretary of State) must disregard the purpose for which the land is required. For instance, it may not rely solely on the development plan to settle the matter .

The key issues in considering the application for the Certificate of Alternative Appropriate Development relates to broader matters of planning policy, access and other potential constraints on development.

Part of the site lies within the settlement boundary and part of the site lies within the Green Belt. These are labeled as 'Parcel A' for the land within the Green Belt and 'Parcel B' for the land within the settlement boundary.

### **Planning Policy Considerations**

In 2008, the Development Plan comprised the North West of England Plan 2021 and the saved policies within the Macclesfield Local Plan 2004 with relevant government advice and circulars representing material considerations.

The North West of England Plan 2021 set out a target for residential development in

Macclesfield from September 2008 up to 2021. On 6 November 2008 this target had not been exceeded. Policy L4 within the RSS indicates that the location and type of housing would be determined by the saved local plan policies and the Strategic Housing Market Assessment (SHMA). The SHMA was carried out in April 2008 and was relevant on 6 November 2008. This indicated that there was a shortfall homes within the Alderley Edge area.

Turning to saved Local Plan policies, Policy H5 provides a number of assessment criterias for the acceptability of the development of housing on windfall sites which included:

- Accessibility;
- The capacity of existing infrastructure to accommodate the development;
- Physical and environmental constraints; and
- Land use issues

In May 2008, the Council produced new guidance in respect of housing developments titled "PPS3 Housing and Saved Policies Advice Note". The Council assessed this against the PPS3 Housing Self-Assessment Checklist and the North West Sustainability Checklist and considered that the site serving the Alderley Edge Bypass to be a suitable and sustainable location. It is a site within a predominantly residential area, which is within walking distance of public transport links, Alderley Edge town centre and to services. The comments from the Strategic Highways Manager indicate that the highways network could have coped with the additional residential development proposed and there is no other land use or physical and environmental constraints which would have precluded development.

The principle of residential development on Parcel B is accepted.

Turning to residential development on Parcel A, development for open market housing was contrary to the advice in Planning Policy Guidance Notes and policies in the Local Plan which relates to Green Belt land. Development for affordable housing or agricultural worker's dwellings would depend on justification being made at the appropriate time.

## **Design Standards**

In terms of the form of development which would have been permitted, there is some variety in the style and age of residential dwellinghouses within this location. That said, there is a distinct difference in character between the northern and southern sides of Brook Lane. The northern side of Brook Lane is characterized by large Manor Houses set within large gardens. Other non residential buildings follow this pattern of large municipal buildings set back from the road frontage within large grounds. However, on the southern side of Brook Lane the character is distinctly different. The area is characterised by a series of cul de sacs and more modest scaled properties which are detached but represent a visually denser form of development. Whilst permission was granted for a block of 18 flats on the northern side of Brook Lane, this was in keeping with the pattern of development along the north side of the lane. As the land in question is located to the south, it is considered that a series of detached properties in a cul de sac formation would be most appropriate.

Given the scale of properties along Brook Lane and Aldford Place, two storey detached dwellings would be appropriate. As access would be taken from Brook Lane, it is considered

that the properties ought to face the road frontage. In addition, given that this site is closely related to development along Alford Place, it is considered that replicating this style of development would be most appropriate.

### **Amenity**

The site would lie opposite a new development of 18 flats. However acceptable privacy distances could be achieved. The portion of the site that lies adjacent to no's 6 and 7 Alford Place would not meet the privacy distances set out in policy DC38 and therefore dwellings could not be located on this section of the site. However, part of the site would still be able to accommodate dwellings without detriment to neighbouring amenity.

### **Highways**

The comments from the Strategic Highways Manager indicate that the site would have been capable of accommodating additional dwellings without detriment to the highways network. Adequate visibility along Brook Lane could have been achieved given that this is a straight section of the road and the most appropriate highways arrangement would have been a single point of access from Brook Lane. The highways infrastructure would however impact upon the amount of space available for development.

### **Housing Density**

PPS3 encouraged development densities of not less than 30 dwellings per hectare. As the land within the settlement boundary amounts to 0.34ha, this would amount to 10 dwellings.

That said, the need to provide highways infrastructure, meet separation distances and keep development to that part of the site which lies within the settlement boundary would all reduce the developable area and subsequently development densities to below a density of 30 dwellings per hectare.

Given that the average development density within Alderley Edge is 2.5 per hectare, a lower density is considered appropriate in this instance.

### **Other Uses**

Whilst the certificate only makes reference to residential development, other uses should also be considered under the certificate.

Having regard to the proximity of this frontage site to adjacent properties along Brook Lane, there may be some loss of residential amenity if agricultural, outdoor sport and recreation uses were permitted on the site.

In addition, commercial uses on the part of the site that lies within the settlement boundary may raise issues in respect of amenity or the character of the area given the proximity of neighbours. Policy H13 seeks to protect residential areas from development which may adversely affect the character of the area or the amenities of occupants.

This would however not discount residential institutions accommodating fewer than seven people.

In the absence of any special circumstances at this time, it is concluded that agricultural, outdoor sport and recreation or business uses would not be appropriate.

## **Other Matters**

### Physical Constraints

It is duly acknowledged that the existing topographical levels of the site would significantly affect the amount of developable land. However, these changes were made to accommodate the bypass and photographs have been submitted demonstrating that the land was relatively flat before construction of the bypass took place.

### Protected Species

A number of residents have raised concerns regarding the presence of protected species. The Council's ecologist has confirmed that surveys undertaken in 2008 did not indicate the presence of protected species on this site and that the presence of species on the site since this time was artificially engineered to mitigate the impact of the bypass. In any event, it is considered that such an issue could have been mitigated and would not necessarily preclude development. In addition, the species in question is not a European protected species. Therefore, the application would not have required assessment against the Habitat Regulations.

### Reasonably Foreseeable Policies

There were no other reasonably foreseeable policies emerging at the time of acquisition.

## **CONCLUSIONS AND REASON(S) FOR THE DECISION**

Utilising a cul de sac arrangement with a single point of access and avoiding land that would be within the Green Belt or raise amenity issues would leave a section of land approximately 60m in length. As mentioned above it is considered that the most appropriate form of development would be two storey detached dwellings in a layout similar to that employed at Aldford Place. On that basis, the site is capable of accommodating three dwellings. The recommendation is to issue a positive certificate for residential development subject to conditions restricting the development to 3 two storey dwellings.

## **RECOMMENDATION**

Issue a Negative Certificate for any development other than for the purposes for which it was required on Parcel A and Issue a Positive Certificate for three detached two storey dwellings or a residential institution accommodating fewer than seven people for Parcel B subject to conditions:-

1. The number of dwellings permitted at the site shall be restricted to 3 dwellings.
2. Details of the proposed visibility splays to be submitted.
3. Parking provision for two car parking spaces per dwelling in accordance with the Cheshire East Borough Council standards.
4. No gates shall be erected at any access point onto the public highway.



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