

Application No: 13/1379C

Location: Land Adjacent to Ivy House, Holmes Chapel Road, Somerford, Congleton, CW12 4SP

Proposal: Construction of one new dwelling

Applicant: Arthur Davies

Expiry Date: 22-May-2013

### **SUMMARY RECOMMENDATION**

**APPROVE subject to conditions**

#### **MAIN ISSUES:**

- Principle of the development
- Housing land supply
- The impact of the design and layout
- The impact upon neighbouring amenity
- Highway safety
- The impact on protected species

### **REASON FOR REFERRAL**

At Southern Planning Committee on May 29<sup>th</sup> 2013, Committee voted for the application to be DEFERRED for FURTHER INFORMATION – Members requested a wider plan showing other schemes approved/refused in the area.

Councillor J. Wray originally called in this application to Southern Planning Committee for the following reasons:

*‘The proposal is not sustainable; road safety issues relating to the A54; the design and character of the proposal is not in keeping with the local area; the potential precedent implications on other proposals in the same area. The significant concerns or potential significant impact of the development and need for a Planning Committee decision are as follows; a recent planning application 12/3807C for land immediately adjacent to proposal 12/4860C was refused by the Southern Planning Committee on 13th December 2012 despite a recommendation to approve from the Planning Officer. This application 12/4860C should receive the same level of review by the Planning Committee to ensure consistency. The main reason for refusal of 12/3807C was a lack of sustainability which therefore also applies to 12/4860C. This relates to the lack of schools, shops and other facilities in the area. The proposal 12/4860C is for a ‘tandem’ development with one house behind the other which is*

*not in keeping with the design and character of nearby houses. There is no pedestrian pathway on the nearby A54 and there are significant concerns for the safety of local people from vehicular traffic if this proposal proceeds. The proposal is for large 'family' houses but there are no safe means for children to access leisure activities other than being taken by car and so the future of these people is compromised. There are a number of current and recent developments in the same area of Brereton Heath and a Planning Committee can look at the bigger picture implications.'*

## **DESCRIPTION OF SITE AND CONTEXT**

The application site comprises a relatively flat, 'L-shaped' field to the southeast, south and southwest of Ivy House, a semi-detached dwelling on the southern side of the A54, Brereton within the Brereton Heath Infill Boundary Line.

## **DETAILS OF PROPOSAL**

Revised plans have now been submitted for the erection of 1 detached dwelling.

The original proposal was for 2 dwellings. The applicant has changed the scheme in response to the comments made at Southern Planning Committee.

Furthermore, 2 photo montages have been submitted to show the proposed dwelling in relation to the surrounding residential developments that are currently being appealed.

## **RELEVANT HISTORY**

**12/4860C** - Construction of two new dwellings – Withdrawn 12<sup>th</sup> February 2013

**12/3807C** - Proposed Residential Development Comprising of 25 no. Dwellings (inc.7no. Affordable Units) Together with the Creation of a New Access (Adjacent site) – Refused 13<sup>th</sup> December 2012

**10238/1** – Bungalow on plot of land – Refused 13<sup>th</sup> February 1980

## **POLICIES**

### **National Policy**

National Planning Policy Framework (NPPF)

### **Local Plan Policy**

PS6 – Settlements in the Open Countryside and the Green Belt

GR1 General Criteria for Development

GR2 Design

GR6 Amenity and Health

GR9 Highways & Parking

NR1 – Trees and Woodlands

NR2 – Wildlife and Conservation – Statutory Sites

H1 & H2- Provision of New Housing Development

H6 – Residential development in the Open Countryside and the Green Belt

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

**Environmental Health** – No objections, subject to conditions relating to hours of construction, hours of piling, the prior submission of a piling method statement and the insertion of a contaminated land informative.

**University of Manchester (Jodrell Bank)** – No objections, subject to a condition regarding the provision of electromagnetic screening measures.

**Strategic Highways Manager** – Originally had concerns regarding visibility.

### **VIEWS OF THE PARISH COUNCIL:**

**Somerford Parish Council** – Object to the proposal. It has been advised that *‘Houses out of character to other local dwellings. Moves away from the ribbon development along the road to moving further back from the main road. It introduces approx 4 move cars onto the dangerous A 54. Family orientated houses which are un stainable. The access over developed for just two houses, the A54 is a very busy dangerous road.’*

**Brereton Parish Council** - Object to the proposal on the following grounds;

- No need for housing as Cheshire East Council can now demonstrate a 5 year supply of housing
- Proposal is back-land development which is out of character
- Development is not in a sustainable location

### **OTHER REPRESENTATIONS:**

8 neighbouring letters of objection have been received to the original proposal. The main areas of concern:

- Site is unsustainable for residential purposes / lack of local amenities
- Proposal is contrary to the NPPF
- No proven demand for housing in this area
- Site is a rural area and the development would be ‘out of character’
- Proposed dwellings are too large
- Highway safety

No objections were received to the revised scheme.

### **SUPPORTING INFORMATION:**

Planning & Design and Access Statement  
Highway Assessment  
Habitat Survey  
Great Crested Newt Mitigation Plan  
Highway Technical Note

Photo Montages

## OFFICER APPRAISAL

### Principle of development

Policy PS6 of the Local Plan advises that within the infill boundary lines, only limited development is permitted in accordance with Policy H6 where it is appropriate to the local character in terms of use, intensity, scale and appearance and does not conflict with any other policies of the Local Plan.

Policy H6 advises that residential development will not be permitted unless it falls into one of a number of categories. One of these categories is *'limited development within the infill boundary line of those settlements identified in Policy PS6 which must be appropriate to the local character in terms of its use, intensity, scale and appearance.'*

The principal acceptability of this application is determined as to whether the development should be considered as *'limited development'* and whether this development would be *'appropriate to the local character in terms of use, intensity, scale and appearance'*.

Given that the development is for 1 dwelling only, it is considered that the proposal should be considered as *'limited development.'*

The site is currently characterised by linear detached and semi-detached residential development which lies parallel to the A54 to the northwest and north. To the southeast is an open field and then a cul-de-sac development (Broomfields) which stems south off the A54.

To the rear of Wood View, The Orchard and The Poplars Nursery to the northwest and west of the site there are a number of larger outbuildings that would extend further to the rear of the proposed development site.

As a result of the layout of this local existing development, it is considered that the addition of 1 further detached dwelling in the layout proposed would respect the local character in terms of its use and intensity.

In terms of scale and appearance, the nearby properties are mixed with regards to their form and finish. There are semi-detached two-storey dwellings, detached and semi-detached bungalows, dormer bungalows and detached two-storey dwellings. These units have a mixture of open brick and rendered finishes, dual-pitched and hipped roofs, white uPVC and wooden fenestration.

As such, the appearance and scale of the new unit is not considered to appear incongruous within its immediate setting. It is considered that the development would adhere with Policy H6 and subsequently PS6 of the Local Plan.

One of the core principles of the NPPF is that planning should:

*"proactively drive and support sustainable economic development to deliver the **homes**, business and industrial units, infrastructure and thriving local places that the country needs.*

*Every effort should be made to objectively identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth."*

Given that the proposed development falls within an infill settlement boundary, the principle of limited development in the form of 1 new dwelling at this site is deemed to be acceptable.

## **Design**

Policy GR2 of the Local Plan advises that the proposal should be sympathetic to the character, appearance and form of the surrounding site in terms of; the height, scale form and grouping, the choice of materials, external design features and the relationship with neighbouring properties.

As advised, the neighbouring development consists of a mixture of dwelling forms and finishes. As such, there is no particular local vernacular to adhere to.

The development site is currently separated from the A54 by a post and rail fence. The proposed dwellings would be inset to the south of this road by approximately 17.5 metres. This dwelling would face the road and be constructed on a similar building line to the adjacent properties to the northwest. As such, it would not appear incongruous in terms of its siting.

A new access point onto the A54 would service a proposed new driveway which would extend along the eastern boundary of the site leading to a detached garage.

The dwelling would have a footprint of approximately 179 metres squared and a height of approximately 8.5 metres. Given the range of dwelling heights and footprints within the vicinity of this development, it is considered that the height and scale of this dwelling would be acceptable.

Limited information has been provided with regards to the proposed materials that would be used in the construction of these dwellings. As such, it is proposed that should this application be approved, a condition requesting the prior submission of material details be submitted.

The proposed dwelling would be a two-storey unit consisting of a dual-pitched roof and a single-storey side and rear outrigger. It would also benefit from a detached, dual-pitched garage.

It is considered that this dwelling would include acceptable design features that would not be out of character in this area of mixed forms and would adhere with policy GR2 of the Local Plan.

## **Residential Amenity**

Policy GR6 of the Local Plan advises that development should not be permitted if it would have a detrimental impact upon neighbouring amenity by way of loss of light, visual intrusion or loss of privacy.

The neighbour that would be most impacted by the proposal would be the applicant, Ivy House. The side elevation of the dwelling proposed would be approximately 13.4 metres

parallel to the side elevation of this neighbouring dwelling. On the relevant side elevation of this proposed dwelling, the following windows are proposed; 2 first-floor secondary bedroom windows, 1 ground-floor secondary dining room window, 1 ground-floor secondary kitchen window and a glazed side elevation to a ground floor sun lounge. On the relevant side elevation of Ivy House there are 2 secondary side windows. Separating the two dwellings at present is a hedge approximately 1.8-metres tall.

Paragraph 2.8 from SPG2 advises that a minimum separation distance of 13.8 metres should be achieved between windows facing directly the flank elevation of an adjacent dwelling. As this distance is largely achieved and because none of the windows impacted would be principal windows to habitable rooms, it is not considered that the development would have a detrimental impact upon neighbouring amenity to this side in term of loss of privacy, loss of light or visual intrusion. However, to prevent any overlooking issues being created by the first-floor secondary bedroom windows, should the application be approved, it is recommended that these be obscurely glazed.

There would be no neighbouring amenity issues created to any other side due to the large separation distances.

With regards to environmental disturbance, Environmental Health have raised no objections, subject to an hours of construction, hours of piling, the prior submission of a piling method statement and the insertion of a contaminated land informative.

As a result of the above, once conditioned, it is considered that the development would adhere with Policy GR6 of the Local Plan.

### **Highway Safety**

The proposed development would involve the creation of a new access onto the A54 and the provision of an access road along the eastern boundary of the site which will access both properties.

Originally, the access to the site would not have been able to achieve acceptable visibility splays. This was because of obstacles on third party land.

The applicant has confirmed that they have the permission of the third party land owner to remove the obstacles and submitted a revised highway plan to show that the required visibility splays can be achieved.

As it involves third party land this will need to be secured by a S106 legal agreement rather than a condition.

As such, subject to this legal agreement, it is considered that the development would adhere with Policy GR9 of the Local Plan.

## **Protected Species**

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places

(a) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment, and provided that there is

(b) no satisfactory alternative and

(c) no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

The NPPF advises LPAs to conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

### *Overriding Public Interest*

With the granting of this permission, mitigation measures will be secured that will protect the future of the protected species on the site.

### *Alternatives*

There is an alternative scenario that needs to be assessed, this is:

- No development on the site

### *No Development on the Site*

If there was no development, no mitigation measures for the protection of the Great Crested Newt would be secured.

#### *Favourable conservation status*

In line with guidance in Circular 6/2005, appropriate mitigation should be secured if planning permission is granted. The proposed mitigation measures will secure the future protection of Great Crested Newts.

Following the submission of a Phase 1 Extended Habitat Survey, Great Crested Newt Survey/Assessment and mitigation / compensation proposals, the Council's Nature Conservation Officer has advised that;

#### *'Great Crested Newt*

*The proposed development is located to the north of a pond known to support a small population of great crested newts. The submitted ecological assessment states that the proposed development is located 180m from this pond, however this pond appears to be 120m away when measured on the Council's OS plan.*

*The site of the proposed development supports habitats which are of relatively low value for this species; however the proposed development would pose the risk of killing/injuring any animals present when the proposed works were undertaken.*

*To mitigate the risk posed to individual animals the applicant ecologist is proposing the exclusion and removal of animals from the development foot print by means of stand best practice methodologies that would be subject to a Natural England license. The loss of habitat will be compensated for by means of an hibernacula constructed outside the development site.*

*I advise that if planning consent is granted the proposed mitigation/compensation would be adequate to maintain the favourable conservation status of the species concerned. If planning consent is granted the following condition should be attached:*

*The proposed development to proceed in accordance with the submitted Great Crested Newt Mitigation Strategy rev. B unless varied by a subsequent natural England license.*

*Reason: to safeguard biodiversity in accordance with the NPPF.*

#### *Badgers*

*The proposed development is located a considerable distance from the nearest badger sett. I advise that the proposed development is unlikely to have a significant impact upon this species.*

#### *Breeding Birds*

*If planning consent is granted a standard condition as below will be required to safeguard breeding birds.*

*Prior to undertaking any works between 1<sup>st</sup> March and 31<sup>st</sup> August in any year, a detailed survey is required to check for nesting birds. A report of the survey and any mitigation measures required to be submitted and agreed by the LPA.*

*Reason: To safeguard protected species in accordance with the NPPF.'*

As such, subject to these conditions, it is considered that the proposed development would adhere with Policy NR2 of the Local Plan.

## **Other Matters**

The refusal of planning permission 12/3807C on the adjacent site is a material consideration. This application was for the erection of 20 dwellings. The application was refused as it was considered that the site *'does not constitute sustainable development, due to its remote location, isolated from shops, services, employment sites, schools and other facilities...'* This application is currently being appealed.

As the site lies adjacent to the proposed development site, the same policies apply. However, the difference between this proposal and the adjacent refused application is the number of units proposed.

It is considered that the addition of an additional unit would constitute 'limited development' whereas the 20 units would not. As such, it is considered that the proposed development adheres with Local Plan policy in this instance and is not a variance with the NPPF.

The relationship between the proposed properties of this development and the properties proposed on the adjacent, refused site is also a material consideration.

No issues between the house proposed and any of the properties that were proposed on the adjacent site would be created. This is due to the large separation distances between the two and their offset relationship.

## **Community Infrastructure Levy (CIL) Regulations**

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

The provision of the access across third party land is necessary to ensure appropriate safe visibility is achieved for all highway users, it directly serves the proposed development and is considered reasonable to the application for one dwelling. The absence of a safe access would render the application unacceptable. The appropriate tests are therefore considered to have been met.

## **CONCLUSIONS**

The principle of erecting 1 new dwelling on a site within the infill settlement boundary is deemed to be acceptable in principle.

The dwelling would respect the local character in terms of use, intensity, scale and appearance. In addition the proposal would not raise any concerns for neighbouring amenity, highway safety or protected species. In so doing, the proposal accords with Policies: PS6 (Settlements in the Open Countryside and the Green Belt), GR1 (General Criteria for Development), GR2 (Design), GR6 (Amenity and Heath), GR9 (Access and Parking), H1 (Provision of New Housing Development), H6 (Residential development in the Open Countryside and the Green Belt) and NR2 (Wildlife and Nature Conservation – Statutory Sites) of the Congleton Borough Local Plan First Review 2005. The proposal would also accord with the NPPF.

## **RECOMMENDATION**

**APPROVE** subject to S106 Agreement to secure the creation and retention of visibility plays on third part land and the following conditions;

- 1. Time (Standard)**
- 2. Plans**
- 3. Materials to be submitted**
- 4. Obscure glazing (x2 first-floor bedroom windows serving Bedroom 3 on north-western side elevation)**
- 5. Electromagnetic materials**
- 6. Hours of construction**
- 7. Pile driving hours**
- 8. Pile driving method statement**
- 9. Landscaping (Details)**
- 10. Landscaping (Implementation)**
- 11. Boundary Treatment (Details)**
- 12. Newt Mitigation (Implementation)**
- 13. Breeding birds**

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