

Application No: 16/3798M

Location: LAND ADJ TO HIGHLANDS, CONGLETON ROAD, ALDERLEY EDGE, CHESHIRE, SK9 7AD

Proposal: Construction of one part two-storey, part three-storey detached infill dwelling with detached garage, new access and landscaping (Resubmission of 15/4117M)

Applicant: Mr & Mrs N McGuinness

Expiry Date: 03-Oct-2016

**Date Report Prepared:** 26 August 2016

## **SUMMARY**

This application is for the erection of 1no. infill dwelling with detached garage, new access and landscaping and follows a previously refused application for an identical scheme on the site. Since the decision was made the Council has received an allowed appeal on a different site within the borough which dealt with similar issues in terms of infill dwellings within the Green Belt. Paragraph 89 of the NPPF allows 'limited infilling within a village'.

This appeal has been used by the applicant in support of their case and, while it is understood that each case must be judged on its merits, due to the similarities with the current application it is considered to remove part of the reason for refusal. The site was not considered to form part of a village and was also not considered to comply with the MBLP definition of infill which states that infill is 'the infilling of a small gap in an otherwise built up frontage (a small gap is one which could be filled by one or two houses)'. The similarity between the location of the appeal site and application site in terms of address and relationship with the closest village allows the application site to be classed as 'within a village'.

The key issue therefore is whether the site can be classed as 'limited infill'. The size of the plot is considered to be suitable to be able to accommodate limited infilling in the form of 1no dwelling. The principle of the proposal is therefore in accordance with paragraph 89 of the National Planning Policy Framework.

The reasons for refusal did not include issues of design, impact on the area, trees, residential amenity, highways safety, ecology or environmental health and so these are once again considered to be acceptable. The proposal accords with the Development Plan and is deemed to be a sustainable form of development.

While the previous committee decision has been taken into consideration, it is felt that the appeal decision is another material consideration in favour of the proposal, and so the application is recommended for approval subject to conditions and further comments from neighbours and consultees.

**RECOMMENDATION: Approve, subject to conditions and comments from interested parties**

## **REASON FOR REPORT**

This application has been called in to committee at the request of Cllr George Walton on the 16<sup>th</sup> August 2016 for the following reasons:

- *'Green Belt infringement being an infill site within the Conservation area of Nether Alderley (not Alderley Edge as in address on application)*
- *'Overdevelopment of the site; the proposal is considered to be more extensive than the adjacent properties and would affect the amenities of the existing properties immediately adjacent to the site and the surrounding area regarding overlooking, loss of privacy and overbearing impact.'*
- *'Design out of keeping with surrounding properties.'*

## **DESCRIPTION OF SITE AND CONTEXT**

The application site comprises a parcel of land approximately 3,980 m<sup>2</sup> in size and located close to the southern edge of the defined settlement of Alderley Edge. The site is undeveloped and heavily overgrown.

The site is bordered by 'Highlands' to the north and 'Millers Gate' to the south. There is residential development and wooded areas to the east on the opposite side of Congleton Road and agricultural land to the west at the rear of the site.

Development along this side of Congleton Road takes the form of substantial detached dwellings in large, well landscaped gardens. The houses are set back some distance from the road and, due to the topography, the houses on the same side of the road as the application site are at a lower level than the road. These factors combined with the dense mature vegetation along the road frontage means that the dwellings themselves are not a prominent feature along this part of the road. The application site itself has many mature and semi-mature trees and the whole site stands within the Alderley Edge Conservation Area, which is also covered by a woodland Tree Preservation Order.

The roadside boundary is made up of trees and hedges.

## **DETAILS OF PROPOSAL**

Full planning permission is sought for the erection of 1no. infill dwelling with detached garage, new access and landscaping. The building would be part two storey and part three storey due to the topography of the land. The application follows an identical application which was recently refused at committee.

## **RELEVANT HISTORY**

- 15/4117M Construction of one part two-storey, part three-storey detached infill dwelling with detached garage, new access and landscaping - Refused 01 June 2016
- 51973P Erection of single dwelling house for occupation by applicant – Refused 17 February 1988
- 21642P Erection of detached house - Refused 16 April 1980

## **POLICIES**

Macclesfield Borough Local Plan – saved policies

BE1 (Design principles for new developments)  
BE2 (Preservation of Historic Fabric)  
BE3 (Conservation Areas)  
BE12 (The Edge Conservation Area)  
H1 (Phased Housing Policy)  
H2 (Environmental Quality in Housing Developments)  
H5 (Windfall Sites)  
H13 (Protecting Residential Areas)  
DC1 (Design – New Build)  
DC3 (Protection of the amenities of nearby residential properties),  
DC6 (Circulation and Access)  
DC8 & DC37 (Landscaping)  
DC9 (Tree Protection)  
DC38 (Space, Light and Privacy)  
DC41 (Infill Housing Development)  
GC1 (Control over new buildings in the Green Belt)  
NE1 (Areas of Special County Value)  
NE11 (Nature Conservation)

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Other Material Considerations

National Planning Policy Framework (NPPF)  
National Planning Practice Framework (NPPG)

## **Cheshire East Local Plan Strategy – Submission Version (CELP)**

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

MP1 (Presumption in Favour of Sustainable Development)  
PG3 (Green Belt)  
SD1 (Sustainable Development in Cheshire East)  
SD2 (Sustainable Development Principles)

SE1 (Design)

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

None received yet, however below are the comments from the previous, identical application:

**Highways:** no objections subject to condition

**Forestry:** no objections subject to conditions

**Nature Conservation:** no objections

**Environmental Health:** no objections subject to conditions

**Conservation:** no objections

**Landscape:** no objections

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

No comments received yet, however below are the comments from the previous, identical application:

**Nether Alderley Parish Council:** The Parish Council has a strong objection to the proposed development for the following reasons:

1. It is an unacceptable new development within the Green Belt and within a Conservation area. Construction of a property on this site would set a precedent for other new development within and on the Green Belt in Nether Alderley and in the wider borough.
2. There is no brown field land on this site.
3. There are no special or exceptional circumstances to permit development on this Green Belt land.

### **OTHER REPRESENTATIONS**

No comments have been received for this application yet, as the consultation period is still open, however below are the comments from the previous, identical application.

Representations from 6no. different properties were received for the previous application. A summary of these can be viewed below:

- Clear infringement of Green Belt policy.
- Negative impact on the Alderley Edge Conservation Area – scale and design not in keeping.
- The rear extends significantly beyond the rear of the neighbours by up to 23 metres.
- Footprint not in keeping with other buildings along Congleton Rd.
- Modern design is not in keeping, should be traditional in appearance.

- A 48m frontage cannot be considered to be a small gap and so should not be considered to be an infill. Also, the site is not within a village and is not surrounded by a built up frontage.
- Also, the policy GC1 limits infill to the settlements of Gawsorth, Henbury, Lyme Green and Sutton.
- Would cause overlooking, loss of privacy and would be overbearing to the neighbouring properties.
- The landscape character of the site, which is assessed as woodland with woodland TPO status conferred, will change radically and material damage to the character of the Conservation Area, the appraisal of which acknowledges the contribution of trees to its sylvan character, will occur as a consequence of this development.
- Substantial number of high or moderate quality trees will be lost.
- An entire woodland ecosystem will be destroyed.
- The proposal does not preserve or enhance the character of the conservation area.

The objection from the adjoining neighbour at Miller's Gate was accompanied by a written opinion from David Manley QC, as well as a heritage statement and landscape impact assessment prepared by consultants. A response from Paul G Tucker QC was provided by the applicant, to which a further response from David Manley QC was submitted.

Any further representations that are received will be reported to Members as an update.

## **APPLICANT'S SUPPORTING INFORMATION**

The following documents have been submitted in support of the application:

- Design & Access Statement
- Planning statement
- Heritage Statement
- Ecology Appraisal
- Arboricultural Statement
- Transport Technical Note

## **OFFICER APPRAISAL**

### **Key Issues**

- Principle of Development in the Green Belt
- Impact on the Conservation Area
- The design of the proposed development
- Highway Issues
- Potential impact on amenity
- Sustainability
- Trees/ Landscaping

## ENVIRONMENTAL SUSTAINABILITY

### Principle of Development

The site lies within an area of Green Belt within the adopted Macclesfield Borough Local Plan. Para 89 of the NPPF states that the construction of new buildings should be regarded as inappropriate. One of the stated exceptions to this is *“limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan”*.

Local Plan policy GC1 relates to new buildings in the Green Belt. Criteria 5 of the policy relates to infilling and allows for *“limited infilling within the settlements of Gawsworth, Henbury, Lyme Green and Sutton provided that the development is in scale and character with the settlement in question”*. In seeking to restrict infilling to a small number of villages within the Green Belt, Policy GC1 is not, in this regard, considered to be consistent with the NPPF which allows limited infilling in villages without any further qualification. This has been established in a number of recent appeal decisions within the Borough. In such circumstances, paragraph 215 of the NPPF indicates that policies in existing local plans should be given less weight.

Notwithstanding the Green Belt issues, the site is considered to be sustainable with regard to access to local services and facilities. Issues of design, amenity, trees and ecology will be examined later in the report.

### Green Belt

The last, identical application was refused at committee for the following reason:

*‘The proposal is an inappropriate form of development within the Green Belt, which reduces openness, due to the development not complying with the definition of limited infilling in a village under paragraph 89 of the National Planning Policy Framework. The development is therefore contrary to guidance within the National Planning Policy Framework and policy GC1 of the Macclesfield Borough Local Plan and would cause harm to the objectives of those policies.’*

Since this decision an appeal decision has been received by the Council for a site at Alstonfield in Mottram St Andrew. The proposal was also for an infill dwelling in the Green Belt and the site circumstances were similar to this application with the site forming part of the parish of Mottram St Andrew, however physically and visually linked to Prestbury. It was stated in the Inspector’s decision that the assessment should be related to physical characteristics, not administrative boundaries. Similarly the application site is located within the parish of Nether Alderley, not Alderley Edge with which it forms the closest links. While it is acknowledged that each case should be judged on its merits the similarities between the appeal site and the application are such that it should form a material consideration in the determination of this application.

The NPPF does not provide a definition of what constitutes limited infilling in villages, but the Local Plan glossary does define infilling as *“the infilling of a small gap in an otherwise built up frontage (a small gap is one which could be filled by one or two houses)”*. This definition has been accepted by several different recent inspectors as being relevant.

The site frontage is 48 metres. There is no metric classification of a “small gap”, and 48 metres, if accepted as such, is considered to be at the upper end of what could reasonably be classified as a small gap. It is considered that the site should be assessed in the context of the surrounding development. The definition goes on to state that a small gap is one which can be filled with one or two houses. In the context of the surrounding properties the gap would not be capable of being filled by more than one house and so with this in mind the development would satisfy the definition within the MBLP of infill.

For the last application a letter of objection was prepared by David Manley QC, on behalf of the owners of the adjoining property, Millers Gate. Several points were raised in that letter, including reference to a dismissed appeal on the site for an infill dwelling. It must be stressed that Green Belt policy has fundamentally changed since this decision and so does not bear a great deal of relevance to the current application.

The letter went on to state that ‘infill development’ can only take place within settlement limits on the Local Plan. This however is contrary to a number of recent appeal decisions, with the inspector in the appeal mentioned above at Alstonfield stating:

*‘Although the site lies outside of the defined village boundary, development extends along Castle Hill and there is no clear break between this built up area and that within the main body of the village. Therefore, in my view, the site can be considered within the village, albeit not within the defined boundary.’*

A similar approach was also taken by the Court of Appeal in Wood v SoSCLG and Gravesham [2015] EWCA Civ 195. It was concluded that the decision as to whether a proposal comprised ‘infill development in villages’ should not be determined solely by reference to a settlement boundary, but what actually exists on the ground. The following comment was made within the decision;

*‘It was also common ground that while a village boundary as defined in a Local Plan would be a relevant consideration; it would not necessarily be determinative, particularly in circumstances where the boundary as defined did not accord with the inspector’s assessment of the extent of the village on the ground.’*

So with reference to the current application, while the address of the application site may include Nether Alderley the site is physically linked to Alderley Edge. There is continuous built development all the way from the application site into the village centre, approx. 750m with a footpath running the whole way. The fact that the development also forms part of the Alderley Edge Conservation Area further links the site to Alderley Edge. With the above in mind it is considered reasonable to conclude that the site forms part of the village of Alderley Edge with respect to guidance in the NPPF. The similarities with the appeal at Alstonfield in terms of location and relationship with the closest village centre means that this part of the reason for refusal should be overcome.

In terms of whether the surrounding development displays a ‘built up frontage’ the plots along Congleton Road clearly form part of a ribbon of development with a fairly clear building line that follows the contours of the road. The plot in question is surrounded on both sides by dwellings with a similar distance to the road and the plot is a similar size to the surrounding plots. Although the proposal and both surrounding properties do contain a large setback from the road for the purposes of the infill definition in the MBLP it is considered that the site does comply with the definition of an infill plot. However it is acknowledged that this definition is not

clear cut and it must be recognised that different opinions may be held about the acceptability of this interpretation.

### **Openness of the Green Belt**

Openness is an essential characteristic of the Green Belt as set out in paragraph 79 of the NPPF. It is clear that this part of the Green Belt includes the village development of Alderley Edge along Congleton Road and the adjacent roads, and therefore is less open than the surrounding countryside. However this does not mean that the openness that does exist is less important.

The proposed development of a dwelling on what is currently an undeveloped site would lead to a reduction in openness. However, in the context of the site's location within the village, the surrounding residential development, and the scale of the site, the lower level of the site from the road and the extensive vegetation the loss would be a relatively small one. In deeming some forms of building in the Green Belt not inappropriate, the NPPF allows for a reduction in the openness of the Green Belt in some circumstances. Therefore, it is considered that significant harm to the openness of the Green Belt would not be caused by the scheme.

### **Design and Impact on conservation area**

Development along this side of Congleton Road takes the form of substantial detached dwellings in large, well landscaped gardens. The houses are set back some distance from the road and, due to the topography, the houses on the same side of the road as the appeal site are at a lower level than the road. These factors combined with the dense mature vegetation along the road frontage means that the dwellings themselves are not a prominent feature along this part of the road. The application site itself has many mature and semi-mature trees and the whole site stands within the Alderley Edge Conservation Area, which is also covered by a woodland Tree Preservation Order.

The proposal would be set approx. 24m from the road, which together with the retained and new vegetation and the drop in levels from the road mean that the proposal would barely be visible from Congleton Road. This is in keeping with the Congleton Road street scene.

The size of the plot is similar to those either side of the site. The dwelling would respect the building line to the front and would provide distances to side boundaries which are commensurate with the surrounding area.

The dwelling would be two-storey to the front and three-storey to the rear due to the topography of the site. As illustrated in the street scene provided, the proposed dwelling would not exceed with height of dwellings either side with a modern flat roof appearance that allows the bulk of the dwelling to be reduced.

The heritage appraisal submitted with the application has found that the existing plot is neglected and overgrown and currently not making a positive contribution to the conservation area. New landscaping would be provided on the road frontage including a new hedge that would respect and enhance the character and appearance of the area.



As set out in the heritage appraisal, the dwelling would be of a high quality contemporary style building using a sympathetic palette of materials which are found elsewhere in the conservation area the details of which could be conditioned with any approval.

It should be noted that in considering an appeal proposal for a new dwelling on Congleton Road to the north of the site, the inspector stated at paragraph 8 that:

*“The Conservation Area Appraisal notes that the area contains a wide range of materials which reflects the eclectic mix of styles. Given this, I consider that the use of contemporary design and materials, although different, would not have a detrimental impact on the Conservation Area”.*

It has been mentioned by neighbours that the footprint is overly large in comparison to the surrounding properties. While on plan view the footprint may appear large, the dwelling would contain staggered levels which would help to relieve the massing. The property would not appear overly dominant because of this.

It is considered that the new dwelling would be an appropriate addition within the context of the area. Along with an appropriate tree/landscape plan that enhances the Sylvan setting of the site the proposal is considered to have a positive impact on the conservation area and the street scene.

As no harm to the character and appearance of the Conservation Area has been identified, the proposal accords with policies relating to conserving and enhancing the historic environment, set out in chapter 12 of the NPPF. Similarly the proposal accords with local plan policy, which seeks to ensure development proposals preserve or enhance the character and appearance of the conservation area.

## **Amenity**

Concerns have been raised from the adjacent properties in relation to overlooking. The proposal would provide a gap of approx. 15m to Millers Gate at its closest point with a gap of over 18m from the rear terrace area. Millers Gate contains a single storey, parallel with the boundary between the properties, which screens views from the patio area at Millers Gate. The side elevation of Millers Gate only contains a secondary window to a bathroom at first floor.

The adjacent property to the north, Highlands, is positioned over 26m from the side elevation of the proposed dwelling and 15m from the proposed garage.

The distances together with the retained trees would be adequate to prevent overlooking of the adjacent properties.

There is no breach of the interface distances between dwellings set out in policy DC38.

It is considered that the impact on the amenity of the neighbouring properties is acceptable and would accord with policies DC3, DC38 and DC41 of the Local Plan.

## Highways

The proposal includes a new access and provision would be made for a minimum of 3 parking spaces within the site.

There are no material highway implications associated with this development proposal. The proposals for the access arrangements are satisfactory and off-street parking provision is in accordance with CEC minimum parking standards for residential dwellings.

Accordingly, the Head of Strategic Infrastructure has no objection in relation to the planning application subject to a condition relating to visibility splays..

## Trees

The application is supported by an Arboricultural statement by Cheshire Woodlands Arboricultural consultancy (Ref CW/7613-AS2) dated 12th August 2015.

The whole site stands within the Alderley Edge Conservation Area, and is also covered by the Macclesfield Borough Council (Nether Alderley – Millers Gate – Congleton Road) Tree Preservation Order 1997 W1. It is accepted that the Woodland designation was probably used at the time of service for convenience and to reflect government advice at the time, in terms of Area TPO classification. There is also an absence of ground floor indicators in terms of flora and fauna to reflect a woodland designation, with bamboo rapidly colonising the south western aspect of the plot. The Arboricultural statement has reviewed the tree cover as individual and groups of trees which is accepted as being more appropriate.

The development proposals require the removal of 10 individual trees 4 groups, and an area of ornamental trees and shrubs. In terms of BS5837:2012 the losses have been categorised as one A value tree (T13), six B value individual trees (T4, 6, 9, 11, 12, 16) and two groups (G4 & 7), and three C value individual trees (T1, 5, 14) two individual trees within two groups (G1/1, G3/1) and one area (A1). It is accepted that the loss of the identified trees will have an impact on the amenity of the immediate area but this is considered to be moderate and minimal in terms of the wider landscape and Conservation Area.

In order to facilitate the proposed basement it is suggested that the use of sheet piles will enable development to proceed whilst retaining existing levels outside the excavation. All piles can be facilitated outside the RPA's of retained trees

There are a number of areas associated with retained trees where there is an incursion within respective Root Protection Areas (RPA). BS5837: 2012 identifies the default position should be that structures should be located outside RPA's, however if there are technical solutions available which might prevent damage, these can be considered. It is suggested that these matters can be resolved by special engineer designed foundations and no dig construction which is accepted.

Whilst tree protection details have not been included the majority of the trees on the site can be retained and protected in accordance with current best practice BS5837:2012. This can be dealt with by condition.

With an acceptance of development consideration has to be given to the possibility of post development issues in terms of light and social proximity. Those trees located to the south of the new dwelling already present a poor social proximity to Millers Gate. The retained group of trees G10 associated with the western aspect of the site are located a reasonable distance from the proposed dwelling and main habitable rooms

From an Arboricultural perspective it is considered that the tree losses will not have a negative impact on the character of the Conservation Area, subject to appropriate landscaping. This aspect of Congleton Road is characterised by distinctive dwellings, set within large plots, with a sylvan setting, dominated by significant individual mature trees. The present road frontage in landscape terms is considered to be limited; this is an opportunity to enhance this aspect as part of a specimen landscape scheme, whilst assimilating development to the rear.

## **Ecology**

The impact on nature conservation interests and in particular any European Protected Species has been carefully considered. The application is supported by an acceptable bat survey report which concludes as follows:

*The proposed development will involve the loss of a number of trees and shrubs on site. Mature trees on the site boundaries will be retained and protected during the development works.*

*The loss of trees on site should have no significant impact on the availability of foraging habitat locally as the site is adjacent to other areas of good quality habitat. Trees to be removed have been inspected for features suitable for use by roosting bats, from the ground and by climbed inspection where necessary. No trees were found on site which have features suitable for use by roosting bats.*

*The provision of bat and bird boxes either fitted to retained trees on the boundary or built into the new buildings could also provide an improvement in the availability of roosting / nesting habitats and offset the loss of trees on site.*

Our Nature Conservation Officer is satisfied that there are unlikely to be any protected species issues associated with the proposed development.

## **Contaminated Land**

The Contaminated Land team has no objection to the above application subject to the following comments with regard to contaminated land:

- The application area has a history of nursery use and therefore the land may be contaminated.
- The application is for new residential properties which are a sensitive end use and could be affected by any contamination present or brought onto the site.

As such, and in accordance with the NPPF, conditions are recommended in order to prevent contaminated land issues.

## **PLANNING BALANCE, CONCLUSIONS AND REASON(S) FOR THE DECISION**

The site comprises an infill development in a village in the Green Belt in a sustainable location, with access to a range of local services and facilities nearby, including good public transport links.

While the previous refusal is taken into consideration, the appeal decision at Alstonfield is also material to the current proposal, and with this in mind it is concluded that the proposed development is permissible as one of the exceptions to inappropriate development in the Green Belt as set out in paragraph 89 of the Framework. Any conflict that is identified with policy GC1 of the Macclesfield Borough Local Plan has to be given less weight due to its inconsistency with the Framework.

As a new development in the Green Belt, the proposal will result in a limited loss of openness. For the reasons stated in the report, the impact on openness is not considered to be sufficient to withhold planning permission. It is not considered that the proposal results in any conflict with the purposes of including land in the Green Belt.

The proposed development will result in the loss of trees within the site that are protected by virtue of their designation within the conservation area and TPO. However, the resultant dwelling and landscaped setting is considered to be in accordance with the key characteristics of the conservation area and therefore there will be no harm to a designated heritage asset as a result of the development. The proposal is in accordance with the Framework and Macclesfield Borough Local Plan policy in respect of arboricultural impact and heritage conservation.

It is considered that there are no significant adverse impacts relating to design, impact on the conservation area, residential amenity, highways safety, ecology or environmental health. The proposal accords with the Development Plan, where it is consistent with the Framework, and is deemed to be a sustainable form of development in environmental, social and economic terms.

Accordingly the application is recommended for approval subject to conditions. However, as noted above, in order to allow time for the consultation period to expire, it is recommended that the application is delegated back to the Planning & Enforcement Manager in consultation with the Chairman and Vice-Chairman of the Planning Committee for approval.

*In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning and Enforcement Manager has delegated authority to do so in consultation with the Chairman of the Northern Planning*

*Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.*

1. A03FP - Commencement of development (3 years)
2. A01AP - Development in accord with approved plans
3. A02EX - Submission of samples of building materials
4. A01LS - Landscaping - submission of details
5. A02LS - Submission of landscaping scheme
6. A04LS - Landscaping (implementation)
7. A19EX - Garage doors
8. A21EX - Roof lights set flush
9. A17EX - Specification of window design / style
10. Hours of operation
11. Visibility Splays
12. In accordance with arboricultural statement
13. Tree protection
14. Tree protection

