

Appeal Decision

Site visit made on 18 October 2016

by Elizabeth Pleasant DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 November 2016

Appeal Ref: APP/R0660/W/16/3155854

Land adjacent to Highlands, Congleton Road, Alderley Edge, Cheshire East SK9 7AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs N McGuiness against the decision of Cheshire East Council.
 - The application Ref 15/4117M, dated 8 September 2015, was refused by a notice dated 1 June 2016.
 - The development proposed is the construction of a one part two-storey, part three-storey detached infill dwelling with detached garage, new access and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of a one part two-storey, part three-storey detached infill dwelling with detached garage, new access and landscaping at land adjacent to Highlands, Congleton Road, Alderley Edge, Cheshire East SK9 7AD in accordance with the terms of the application, Ref 15/4117M, dated 8 September 2015, subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Mr & Mrs N McGuiness against Cheshire East Council. This application is the subject of a separate Decision.

Main Issues

3. The main issue in this case is whether the proposal would be inappropriate development in the Green Belt and if so, the effect on the openness of the Green Belt.

Reasons

4. The appeal site is situated on Congleton Road in an area which is designated as Green Belt and characterised by ribbon housing development which extends out in a southerly direction from the centre of Alderley Edge. The site is also located within Alderley Edge Conservation Area and a Tree Preservation Order extends across the site.
 5. Policy GC1 of the Macclesfield Borough Local Plan, 2004 (Local Plan) seeks to restrict the construction of new buildings in the Green Belt unless there are very special circumstances, or it is for a specific purpose. Limited infilling is
-

- listed as one of those purposes; however the policy restricts such infilling to specific settlements which do not include Nether Alderley.
6. Paragraphs 87-89 of the National Planning Policy Framework (the Framework) state that inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and "very special circumstances" will not exist unless the potential harm to the Green Belt by inappropriateness, and any other harm, is clearly outweighed by other considerations. Subject to a number of exceptions, the construction of new buildings should be regarded as inappropriate development.
 7. The listed exceptions in paragraph 89 include limited infilling in villages. The Council accepts that Policy GC1 of the Local Plan is not consistent with the Framework as it only allows for limited infilling in a small number of villages. Taking into account paragraph 215 of the Framework I therefore afford this Policy limited weight and shall determine the appeal having regard to the criteria in the Framework.
 8. The parties agree that the appeal site lies outside of the defined village boundary for Alderley Edge and within the Parish of Nether Alderley. I have had regard to the Court of Appeal Judgement¹ where it was made clear that it is a matter of judgement as to whether or not a site is to be treated as being in a village and if it is, whether or not a proposal would comprise 'limited infill'.
 9. The appeal site forms part of the continuous ribbon development that stretches out from the village centre along Congleton Road. This ribbon development displays a consistent character which is derived from the large and distinctive residential properties situated within substantial plots. On my visit to the site I saw no evidence of any clear visual break between the defined boundary of the village and the existing built development located on either side of the appeal site, and all of which lie within the Conservation Area. It is only where Congleton Road extends South beyond Welsh Row that its character changes and open fields and countryside prevail.
 10. Furthermore there are clear pedestrian links into the village centre which is located some 800 metres to the North of the site and where a full range of shops and services can be found. It is clear to me that despite the appeal site being located within the Parish of Nether Alderley, on a section of Congleton Road where the speed limit increases to 40mph and street lighting finishes, both visually and functionally it forms part of the village of Alderley Edge.
 11. In considering whether or not the proposal would comprise 'limited infill', this is also a matter of judgement. The Framework does not provide a definition of what constitutes limited infilling in villages. The Council have stated that the glossary to the Local Plan defines infilling as 'the filling of a small gap in an otherwise built up frontage (a small gap is one which could be filled by one or two houses)'. Despite the nature of the development along Congleton Road being spacious, with properties set well back from the road and within relatively large and mature gardens, the overall street scene is one of a continuous form of built development which fronts onto the road. The appeal site forms a gap in this frontage which is similar in its size and plot width to existing properties on the street. The rear boundary of the site is also aligned

¹ Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA CIV 195

with its neighbours, and distinct from the open fields beyond. The site would only accommodate one or possibly two dwellings in a manner that would preserve the character of the area, and on this basis I am satisfied that the appeal proposal would represent limited infilling.

12. I therefore conclude that the proposed development on the site for a single dwelling would represent limited infilling within a village and would consequently be an exception in accordance with paragraph 89 of the Framework and would not be inappropriate development within the Green Belt. The proposal is in conflict with Policy GC1 of the Local Plan, however in view of the inconsistency of this Policy with the Framework, the weight that can be attached to it is limited. The Framework, which is a material consideration, outweighs the requirement that a proposal should be determined in accordance with the Development Plan, where it is not consistent with it. Given that the appeal proposal would not be inappropriate development, the proposed dwelling would not have a harmful impact on the openness of the Green Belt.²

Other Matters

13. The site is situated within Alderley Edge Conservation Area the character of which along Congleton Road is derived from distinctive dwellings set within spacious and verdant plots. I have considered third party representations, including evidence from Heritage Consultants, which express concern over the impact the proposal would have on the character and appearance of the Conservation Area. Although the proposed dwelling and garage may well have a larger footprint than its neighbours, the appeal proposal would preserve the character of the area by developing a distinctive dwelling within a spacious plot which would overall retain its sylvan appearance. I also note that the Council did not raise any objections to the proposed design of the dwelling nor did they believe that the proposal would cause harm to the special character or appearance of this Conservation Area. I see no reason to disagree.
14. In reaching this conclusion I have applied the statutory test set out at Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 that requires special attention be paid to the desirability or preserving or enhancing the character or appearance of the Conservation Area.
15. I have had regard to the verdant nature of the site and the Tree Preservation Order which extend over it. However, a significant number of trees will remain on the site and additional planting is proposed. I am mindful that the Council's Arboriculture Officer and Landscape Officer raised no objections to the proposal and overall I am satisfied that the site will retain a sylvan appearance reflective of the character of neighbouring development on Congleton Road. Furthermore the Council would retain control over any future proposals to remove trees.
16. I have had regard to previous appeal decisions in 1980 and 1989 where proposals for a dwelling on this site were dismissed. However, there has been a change in Green Belt policy since those decisions and I therefore give them limited weight. I understand third parties are concerned that the proposal would set a precedent for further development on Congleton Road within the Green Belt. Each case must however be considered on its merits, and in this instance I have found that the proposal would not be inappropriate

² Lee Valley Regional Park Authority v Epping Forest District Council [2015] EWHC 1471 (Admin)

development nor have I identified any demonstrable harm to interests of acknowledged importance.

17. I have had regard to the footprint and height of the proposed dwelling and garage and its relationship to Highlands and Millers Gate. The Council did not consider that the proposed development would have a harmful impact on the living conditions of the occupiers of neighbouring properties, and from my inspection of the site I concur with their view.

Conditions

18. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result I have amended some of them for clarity, consistency and elimination of duplication.
19. I have attached a condition specifying the approved plans as this provides certainty.
20. Pre-commencement conditions relating to details of materials of external construction and landscaping are necessary to safeguard the character and appearance of the Alderley Edge Conservation Area.
21. A pre-commencement condition relating to construction details within tree protection areas and a condition relating to arboricultural works are necessary to safeguard trees and protect the character and appearance of the area.
22. I have imposed a condition relating to details of the vehicular access, including visibility splays as this is necessary in the interests of highway safety.
23. A condition restricting hours of construction work and requiring details of piling are necessary to safeguard the living conditions of neighbouring residents.
24. I have imposed a condition to specify details of the installation of rooflights as this is necessary to safeguard the character and appearance of the Alderley Edge Conservation Area.
25. I have not attached conditions suggested by the Council citing specific materials of construction for the garage doors and windows. These details are shown on the approved plans and a condition has been imposed to require all materials of external construction to be agreed.

Conclusion

26. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Elizabeth Pleasant

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed site layout plan, Ref P-101 Rev B; Proposed lower ground floor plan, Ref P-110 Rev B; Proposed ground floor plan, Ref P-111 Rev B; Proposed first floor plan, Ref P-112 Rev B; Proposed roof plan, Ref P-113 Rev A; Proposed east (front) elevation & street scene, Ref P-201 Rev D; Proposed south (left) side elevation, Ref P-202 Rev D; Proposed west (rear) elevation, Ref P-203 Rev D; Proposed north (right) side elevation, Ref P-204 Rev D; and Proposed garage, Ref P-400 Rev C.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until engineer designed details for structures and hard landscaping, where there is an incursion with the root protection areas, has been submitted to and approved in writing by the Local Planning Authority. The details shall include the proposed materials for the final wearing surface and the development shall be carried out in complete accordance with the approved details.
- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.); retained historic landscape features and proposals for restoration, where relevant.
- 6) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) Before the dwelling hereby permitted is first occupied, visibility splays shall be provided with dimensions 2.4m x 45m to the north of the site

access at its junction with Congleton Road and 2.4m x 43m to the south of the site access, in accordance with Drawing Ref: SCP/155055/F01 Rev B attached at Appendix 1 of the SCP's Technical Note, dated 13 August 2015. Any foliage or other obstruction falling within the visibility splays should be maintained at and not exceeding 0.9m in height relative to the level of the site access.

- 9) All arboricultural and tree protection works shall be carried out in complete accordance with Cheshire Woodlands Arboricultural Statement, Ref CW/7613-AS2 dated 12 August 2015.
- 10) Construction works (and associated deliveries to the site) shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1400 hours on Saturdays nor at any time on Sundays or Bank Holidays.
- 11) In the event that piling is necessary, full details of the method, timing and duration of any pile driving operations connected with the construction of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to such works taking place. All pile driving operations and shall be implemented in accordance with the approved details.
- 12) The roof lights in the development hereby permitted shall be set flush with the angle of the surrounding roof slope. If this cannot be achieved, the degree of projection from the plane of the roof pitch shall be agreed in writing with the local planning authority prior to their installation. The roof lights shall be installed in accordance with the approved details.