

Application No: 13/0493N

Location: Land between Meadow Rise and Ash Cottage, Off Holmshaw Lane, Haslington, CW1 5XF

Proposal: A new single storey dwelling

Applicant: Mr & Mrs J Coupland

Expiry Date: 29-Mar-2013

#### **SUMMARY RECOMMENDATION: Refuse**

#### **MAIN ISSUES:**

- Principle of the Development
- Amenity
- Design and Scale

#### **REASON FOR REFERRAL**

The application was called in to Southern Planning Committee by Councillor John Hammond on the following grounds:

*“Should the officer recommendation be for refusal then Haslington Parish Council has requested that the application be determined by Committee as it is considered that an exception should be made to Policy NE2 of the Crewe & Nantwich Replacement Local Plan 2011 as any objections are outweighed by the specific personal circumstances associated with the applicants and the long term care plans for their disabled daughter.”*

#### **DESCRIPTION AND SITE CONTEXT**

This application relates to a plot of land on the western side of Holmshaw Lane, Haslington. To the north there are three residential properties including the one owned by the applicant. The site is designated as being within the open countryside in the adopted local plan.

#### **DETAILS OF PROPOSAL**

This proposal seeks full planning permission for a detached bungalow in what is currently a paddock with associated buildings. The dwelling would provide 3 bedrooms, 2 with en-suite and additional living accommodation including kitchen, studies and boot room.

The main justification for the application is that the dwelling would provide suitable living accommodation for the applicants, in particular for their disabled daughter.

## **RELEVANT HISTORY**

12/0650N	2012	Refused application for new dwelling
11/3677N	2011	Withdrawn application for new dwelling
P02/1342	2003	Refusal for dwelling. Appeal dismissed

## **POLICIES**

### **National Guidance**

National Planning Policy Framework (March 2012)

### **Regional Spatial Strategy**

DP1 Spatial Principles

DP2 Promote Sustainable Communities

DP4 Making the Best Use of Existing Resources and Infrastructure

DP5 Manage Travel Demand: Reduce the Need to Travel, and Increase Accessibility

DP7 Promote Environmental Quality

DP9 Reduce Emissions and Adapt to Climate Change

RDF2 Rural Areas

L2 Understanding Housing Markets

L4 Regional Housing Provision

RT2 Managing Travel Demand

RT9 Walking and Cycling

EM1 Integrated Enhancement and Protection of the Region's Environmental Assets

### **Local Plan**

The site is not allocated in the Local Plan but the following policies apply:

RES.5 Housing in the Open Countryside

NE.2 Open Countryside

NE.3 Areas of Special County Value

BE.1 Amenity

BE.2 Design

BE.3 Access and Parking

BE.4 Drainage, Utilities and Resources

## **CONSIDERATIONS**

### **United Utilities:**

Have not provided a response on this application but had no objections to the previous application that was withdrawn.

### **Environmental Protection:**

Request conditions relating to contaminated land and hours of construction and piling.

### **Highways:**

No response at the time of report writing; however comments on the previous application are shown below.

This development requires the reconstruction of the vehicular crossing to current specifications. The Strategic Highways Manager recommends that the following informative be attached to any permission which may be granted for the above development proposal:

*Prior to first occupation the developer will enter into a Section 184 Agreement under the Highways Act 1980 and will reconstruct the existing vehicular access to current highway specifications.*

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

The application was discussed at a February meeting of Haslington Parish Council. The meeting agreed that Haslington Parish Council support the proposed development on the basis of providing appropriate accommodation for the applicants disabled daughter with a development that would not appear to result in catastrophic damage to the specific area of open countryside, provided the following conditions can be applied to the development:

The covenants and restrictions proposed by the applicant are applied to the development, specifically the unilateral undertaking included in the application and that the proposed bungalow will be used only by a person with disability and their carers, safeguards are applied to the existing and proposed trees, hedges and other vegetation to retain the local characteristics of the open countryside and permitted development rights be removed.

Support Cllr John Hammonds call in of the application for a decision by the Southern Planning Committee requesting an exception be made to Policy NE2 given the specific circumstances of the applicants and the long term care plans for their disabled daughter.

## **OTHER REPRESENTATIONS**

None received at the time of report writing.

## **APPLICANTS SUPPORTING INFORMATION**

The applicant has submitted a statement which seeks to justify why they consider that there are very special circumstances that outweigh the harm that would result from the erection of a new dwelling in the open countryside. For completeness given the circumstances of the application this is detailed in full below:

*“We understand that you are due to decide the above application on 20th March and are aware that you have previously considered this proposal. However, until now we have been unable to detail my daughter’s special needs to you as we did not have lasting power of attorney. We can confirm that we now have this in place and therefore on Emily’s behalf we can now freely speak about the issues she faces and her needs. It is in order to address these needs that we are seeking planning permission for a new home to be granted, so Emily can live and be cared for in a safe and stable environment.*

*Whilst we do not want to prejudice your consideration of the application we do want you to determine the application with full knowledge of her disability, which is the reason for this letter.*

*Our daughter has been having problems since birth; there was strong evidence that she suffered at least one cerebral anoxic episode. She could not walk or talk until 3 years old, and further tests showed some brain reduction (scans) and we were told she would have a limited life style. She has a significant degree of learning Disability and Special Needs. Having dedicated many hours /our lives, by the age of four she was starting to walk, the next step was communication. We have spent many hours at speech therapy appointments and through stimulation and perseverance at home proved successful, by 7 years of age she was conversing with us, although her conversations are limited and mostly about animals.*

*She has care 24/7 and cannot read or write. Whilst she is able to do some tasks of a general nature, she has limited abilities no monetary skills and requires support with road crossing etc. Being in a safe environment is an essential part of her needs. She is a quiet and friendly person who benefits greatly from stability in her living environment and specific structure to her day to day life. Emily does not react well to change of any kind which has to be managed carefully and sensitively. She has lived with us, in a loving family environment and we have gone, and continue to go to great lengths to provide her with a high level of care, support and structure.*

*We as a family have worked hard with her also those who have cared for and supported her over the years, to build a foundation of care and support for her at home whilst allowing her to develop her independence, for example developing her great love for animals. Based on this we have taken on a number of animals over the years using the paddock as their base, a place which she simply loves visiting on a regular basis.*

*She would not react well at all to any significant change in her living environment. It is for this reason, and others, that the very best way of achieving a stable future living environment for her is to create a fully accessible house for Emily which could be her home for life and where she could have access to her animals. Whilst moving from Struan would be a significant change for her it would be a change she would, we have no doubt, welcome and which she would clearly benefit from.*

*We genuinely feel that we must make a move to prepare for the future in a very real and practical way by creating a living space which mirrors our current family home as much as possible but also, and importantly, makes it fully accessible for us so that we can continue to provide the high level of specific and structured care and support which she needs. In a fully accessible home we will be better able to provide continuing care for her in an environment in which she will thrive and continue to grow, developing her independence and social skills with those who currently help her and with full access to a familiar environment and her much loved animals. We have been particularly conscious of this in recent years and have sought to develop her care in the future in reference to the personalisation agenda and in order to achieve a more robust care package for her in the long term, when we are unable to provide the high level of support we are currently able to.*

*At present, she receives a high level of support from the Lady Verdin Trust on a daily basis. If we are away for weekends or short breaks, carers from the Lady Verdin Trust can provide all the care, including overnight care, which Emily needs. Whilst the carers stay at Struan (our current home) with her there is no separate sleeping or bathing/sanitary arrangements in place at Struan for ourselves or her carers.*

*If we were able to create an environment in which carers lived independently from Emily and ourselves and, ultimately, Emily alone, in a fully planned living environment, this would undoubtedly have a positive impact upon Emily's long term development and independence.*

*Please do not underestimate the importance of such planning not only for us, but more importantly for our daughter. She requires help, and the development we are suggesting is the best possible way of ensuring she receives a full level of care and support both now and long into the future all of which will be supported through the family trust. It is, with respect, a perfectly sensible, viable and appropriate development founded upon the sound principles of trying to do the very best to secure the future for a disabled daughter when we are no longer here.*

*Therefore the primary need for the dwelling is clearly to meet Emily's future needs. Beyond this, as the dwelling will be fully disabled friendly (in terms of access and internal design) the intention is that the house will be secured solely for disabled occupants for the lifetime of the building, as set out within a draft Unilateral Undertaking.*

*We therefore trust that this helpfully explains Emily's disability and need for the dwelling we seek permission for and trust that this will be taken into account when making a decision."*

Also included is a Unilateral Undertaking that would require that the dwelling, when no longer required for the applicants or their daughter, be disposed of to either a disabled person, a person or company who intend to hold the property on trust for a disabled person or a charitable organisation whose objective is the care of disabled persons. An update will be prepared for Committee prior to the meeting, addressing whether the Legal Section consider this to be properly drafted and enforceable.

## **OFFICER APPRAISAL**

### **Principle of Development**

The site is designated as being within the open countryside where Policies NE.2 and RES.5 apply. These policies state that new dwellings in the open countryside will only be allowed if they are essential for the purposes of agriculture, forestry or outdoor recreation, or involve the infilling of a small gap with one or two dwellings in an otherwise built up frontage.

This proposal is for a new dwelling to accommodate the applicants and their disabled daughter and therefore does not meet the requirements of the policies outlined above. The applicants have submitted supporting information including a Supporting Planning Statement as justification for making an exception to the relevant policies. These documents have again been given careful consideration and whilst officers understand the difficulties faced by the applicant's daughter, it is not considered that these circumstances justify the creation of a new dwelling in the open countryside.

As discussed in the report on the previous application, this issue was considered at a Public Inquiry in 2006, relating to a similar case, at Mill Run, in the former Congleton Borough. In this case the applicant's daughter's disability and housing needs were considered to be a material consideration, which had to be weighed in the balance against the planning policy presumption against residential development in the Open Countryside. However, in order to determine the weight to be given to those personal circumstances it was necessary to examine the

reasonableness of the housing needs which were claimed by the Appellants and the criteria and the efforts employed by them to find suitable accommodation elsewhere.

The Appeal turned on whether the features of the dwelling proposed by the Appellants were “essential” or “desirable” for their disabled daughter. Having considered this issue the inspector determined that, having regard to grants and other assistance which were available to help the family to adapt a dwelling, the needs of the disabled person could be adequately met by an existing property.

The supporting information submitted with the application indicates that the applicant’s daughter suffers from mixed anxiety / depression and moderate learning difficulties / disabilities rather than severe physical disabilities which would necessitate more major structural alterations to the property or a bespoke design of dwelling. The justification for the applicants existing property not being suitable, largely relates to Building Regulations (e.g. energy efficiency measures) and general maintenance / repair and the lack of separate bathroom facilities. It does not give satisfactory reasons why their current dwelling could not be suitably adapted for her special needs. The applicant’s argue that the works considered necessary to bring the existing dwelling up to a suitable standard for their daughter’s future care, would cause disruption to her, which may be distressing. Whilst it is acknowledged that avoidance of such disruption would be “desirable” it is not considered to be “essential”, given that such impacts would only be short term. It is therefore not considered that these are sufficient reasons to allow a new dwelling in the open countryside contrary to the policies in the adopted local plan.

The application includes a list of alternative properties that have been investigated and deemed unsuitable in the opinion of the applicants. The applicants have not backed up their reasons for discounting these properties as not being suitable with medical/professional opinion. The needs and specific criteria used for assessing the properties are unclear and appear to be based on desirable, not essential needs and as such it is not considered that the case has been made to justify the granting of planning permission. The applicant’s argue that they wish to stay in the Holmshaw Lane area to be close to the paddock where they keep their animals. However, this is also considered to be “desirable” rather than “essential”.

The Supporting Planning Statement refers to Article 19 of the “United Nations Convention on the Rights of Persons with Disabilities” requiring “equal rights of persons with disabilities to live in the community with choices equal to others” and “appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community” including “choosing their place of residence.” Whilst this is noted, it is considered that applicant has a dwelling that could be adapted to serve the needs of their daughter, and that would meet the requirements of the Convention. There is no necessity to create a new dwelling in the open countryside in order to comply with this, as other persons without disabilities do not enjoy rights to develop dwellings in the open countryside.

It is therefore considered that the applicants have failed to demonstrate, with reference to authoritative advice on the subject, that their daughter’s needs are “essential” rather than merely “desirable” and that the existing property could not be adapted or that there are no suitable existing properties, or building plots in locations which are compliant with planning policy, which could fulfil these requirements.

As discussed on the previous application this is in contrast to a similar case, which Members may recall was considered by Strategic Planning Board in 2011. In this case it was considered that the specification for the property drawn up by the applicant related to basic necessities such as being able to wash, dress, eat, sleep and access the property and had been drawn up based upon details in the Muscular Dystrophy Campaign's Adaptations Manual 2003. On this basis they were considered to be "essential" requirements of the dwelling rather than "desirable" luxuries. The applicant had also carried out an extensive property search and adequately demonstrated that there was no suitable alternative accommodation available in the vicinity that could meet the applicant's requirements and that the only way in which his needs can be adequately catered for this through the construction of a new-build property adjacent to his parent's house in Chapel Lane, Ravensmoor. Exceptionally, in this case, therefore, the appellants personal circumstances are considered to be a sufficient material consideration to outweigh the general presumption against new development in the open countryside as set out in the development plan.

As stated above, officers understand the aspirations of the applicants to provide a dwelling in the paddock for their daughter. However the information submitted has not given sufficient justification that it is "essential" rather than "desirable" in order to make an exception to Policies NE.2 and RES.5.

Having regard to Policy NE.2, the site is not considered to constitute the infilling of a small gap in an otherwise built up frontage and this view was supported by the Inspector on the appeal decision for the previous application. The supporting statement submitted with the application maintains that the Council has a housing shortage and as such plots such as this should be considered for development. In addition they cite a recent approval in Haslington (12/3564N), for 44 dwellings as more harmful than the proposal. The Council has now published the Development Strategy and the up to date Strategic Housing Land Supply Assessment. This demonstrates that the Council now has a five year housing land supply. The application for 44 dwellings was approved at a time when the Council could not demonstrate that it had a five year supply of housing and was sited immediately adjacent to the main settlement of Haslington as such the case is not comparable.

The proposal is therefore considered to be contrary to Policies NE.2 and RES.5 and unacceptable in principle and the personal circumstances of the applicants do not outweigh this.

### **Amenity**

Having regard to the amenities of the neighbouring property, due to the siting of the proposed dwelling, it is not considered that there would be any significant adverse impact on the amenities of this dwelling. The proposal is therefore considered to be in compliance with Policy BE.1.

### **Design and Scale**

This proposal is for 3 bedroom bungalow finished in traditional materials. It is considered that the design and scale of the buildings are appropriate in the context of the site. The proposal is therefore considered to be in compliance with Policy BE.2 of the adopted local plan.

### **Highways and Parking**

The proposal would provide adequate parking spaces for a property of this size and, due to the size of the turning area, vehicles would be able to enter and leave the site in a forward gear. The proposal is therefore considered to be in compliance with Policy BE.3 of the adopted local plan.

### **CONCLUSIONS**

In conclusion, the site is within the open countryside and does not constitute a small gap in an otherwise built up frontage. It is not considered that there are sufficient special circumstances provided to render it an exception to Policies NE.2 and RES.5. The proposal is therefore not acceptable in principle and the application is recommended for refusal.

### **RECOMMENDATION: Refuse for the following reasons:**

1. The proposal is for a new dwelling in the open countryside, which is contrary to the requirements of Policy RES.5 of the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011 and the applicant has failed to demonstrate that their personal circumstances are sufficient material consideration to outweigh the requirements of this policy.
2. The proposal does not constitute the infilling of a small gap in an otherwise built up frontage, contrary to the requirements of Policy NE.2 of the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011.



