

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:

- Whether it is appropriate to impose an amended condition 9 relating To the occupation of the dwelling

REASON FOR REFERRAL

The application is for a variation on an application that was determined by Southern Planning Committee.

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

Members may recall that on 20th March 2013, Southern Planning Committee granted approval for a detached bungalow in what is currently a paddock with associated buildings, contrary to officer recommendation.

The main justification for the application was that the dwelling would provide suitable living accommodation for the applicants, in particular for their disabled daughter. The approval was subject to a number of conditions which were requested by members. This application seeks to vary condition 9 which reads as follows:

"The dwelling hereby permitted shall be occupied only by the applicants, Mr and Mrs J Coupland, their daughter Emily Coupland and carers for Emily Coupland.

Reason: The dwelling would not normally be permitted in open countryside and the

exceptional circumstances of the applicant are considered to outweigh the policy objections.”

The applicant wishes the condition to read as follows:

“The dwelling hereby permitted shall only be occupied by persons having a disability as defined by the Equality Act 2010 and their immediate family and carers.”

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11/3677N	2011	Withdrawn application for new dwelling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)

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

OFFICER APPRAISAL

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 was for a new dwelling to accommodate the applicant and their disabled daughter and therefore did not meet the requirements of the policies outlined above. The applicant submitted supporting information including a Supporting Planning Statement as justification for making an exception to the relevant policies.

Officers recommended refusal of the application; however members resolved to approve it due to what they considered to be the exceptional circumstances demonstrated by the applicant. This was subject to the imposition of the condition limiting the occupation to this family in particular.

The applicant considers that what they wanted to achieve has been misinterpreted and that he cannot accept the condition that members resolved should be imposed. This is because it

would lead to a requirement to lift the condition or demolish the dwelling when his daughter was no longer resident in it.

The applicants have stated that what they were trying to achieve was, the provision of a dwelling for persons with a disability, including their family and carers, when his daughter was no longer resident in it.

Circular 11/95 requires that conditions must be:

- Necessary
- Relevant to planning
- Relevant to the development
- Enforceable
- Precise
- Reasonable

The reason for the condition that members required for the approval of the application states that they were only minded to approve the application because of what were considered to be the exceptional personal circumstances of the particular applicant concerned. That is why they wished to limit the occupation to Mr and Mrs Coupland, Emily Coupland and her carers. As such the condition put forward by members meets the tests required by Circular 11/95.

The condition proposed by the applicant would limit the occupation of the dwelling to people with a disability as defined by the Equality Act 2010, their immediate family and carers. The definition of disability in the Act is a physical or mental impairment that has a 'substantial' and 'long term' negative effect on the individual's ability to undertake normal activities. It is considered that this condition would also meet the tests required by Circular 11/95.

However; given the wide range of medical conditions that can be defined as a disability, if the condition were varied as the applicant suggests, it would not be possible to assess whether the exceptional circumstances cited by members as the reason for approving the application, would apply to future occupants of the dwelling house.

If the condition remains as per the approved wording, it remains open to the occupant to apply to vary the condition at such time as they no longer require and are seeking to dispose of the property. At that point the Council could assess the individual personal circumstances of the prospective purchaser to determine whether they are sufficient to warrant a similar exception to established planning policy to be made.

CONCLUSIONS

In March members accepted the exceptional circumstances that were put forward by the applicant and resolved to approve the application subject to a condition limiting the occupancy of the dwelling to the family and carers. If the condition were varied in the way put forward by the applicants, it would alter the nature of the permission in such a way that these exceptional circumstances would no longer apply.

RECOMMENDATION:

Refuse for the following reason:

The Local Planning Authority granted approval for the dwelling on the basis that the exceptional personal circumstances pertaining to the applicant and his daughter and in particular the nature of her individual disability, were sufficient material considerations to outweigh local plan policy. The proposed variation to condition 9 would open up occupancy of the dwelling to anyone, with any form of disability, such that those exceptional personal circumstances may not apply, and there would be insufficient material considerations to outweigh Policy NE.2 of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

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