

Application No: 14/1975N
Location: LAND OFF WRENS CLOSE, NANTWICH, CHESHIRE
Proposal: Full planning permission for 11 dwellings including access and associated infrastructure (resubmission of 13/4904N)
Applicant: Mr F Lloyd-Jones, Thomas Jones and Sons
Expiry Date: 16-Jul-2014

SUMMARY RECOMMENDATION

REFUSE

MAIN ISSUES

Impact of the development on:-

**Planning Policy and Housing Land Supply
Affordable Housing,
Highway Safety and Traffic Generation
Landscape Impact
Hedgerow and Tree Matters
Ecology
Design
Amenity
Sustainability
Education**

REASON FOR REFERRAL

This application is referred to the Southern Planning Committee as it relates to a small scale major development and a departure from the development plan.

DESCRIPTION OF SITE AND CONTEXT

The application site is an area of land approximately 0.33 hectares in size, to the south of Wren's Close, Nantwich. It is a predominantly flat site with the southern and western boundaries adjacent to properties on Audlem Road, the northern boundary is adjacent to the 5 properties that make up Wrens Close and to the east is open countryside.

The land to the east is currently subject to an appeal against refusal for 189 dwellings contrary to open countryside policies (12/3747N).

The site is designated as being within the Open Countryside in the adopted local plan.

DETAILS OF PROPOSAL

This is a re-submission of a full planning application for the erection of 11 dwelling houses on land south of Wrens Close, Nantwich. The development would consist of 10 semidetached properties and 1 detached. The properties would be accessed from Peter Destapleigh Way, passing Wrens Close and each property would have 2 parking spaces.

The application layout is unaltered from the previous one that was refused and simply seeks to address the reasons for refusal.

The previous application was refused for the following reasons:

1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, Policy PG 5 of the Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also contrary to the emerging Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.
2. Insufficient information has been submitted with the application relating to ecology in order to assess adequately the impact of the proposed development having regard to reptiles. In the absence of this information it has not been possible to demonstrate that the proposal would comply with Policy NE.9 of the Crewe and Nantwich Replacement Local Plan 2005 and the NPPF.

RELEVANT HISTORY

13/3904N	2014	Refusal for 11 dwellings, access and associated infrastructure
P05/0033	2005	Approval for 5 dwellings.

POLICIES

National Guidance

National Planning Policy Framework

Local Policy

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28th February 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

The relevant policies of the **Cheshire East Local Plan Strategy – Submission Version** are:

Policy SD 1 Sustainable Development in Cheshire East
Policy SD 2 Sustainable Development Principles
Policy SE 1 Design
Policy SE 2 Efficient Use of Land
Policy SE 3 Biodiversity and Geodiversity
Policy SE 4 The Landscape
Policy SE 5 Trees, Hedgerows and Woodland
Policy SE 9 Energy Efficient Development
Policy SE 12 Pollution, Land Contamination and Land Instability
Policy PG 1 Overall Development Strategy
Policy PG 2 Settlement Hierarchy
Policy PG5 Open Countryside
Policy EG1 Economic Prosperity

The relevant policies saved in the **Borough of Crewe and Nantwich Replacement Local Plan** are:

BE.1 – Amenity
BE.2 – Design Standards
BE.3 – Access and Parking
BE.4 – Drainage, Utilities and Resources
BE.5 – Infrastructure
BE.6 – Development on Potentially Contaminated Land

NE.2 – Open Countryside
NE.5 – Nature Conservation and Habitats
NE.9 – Protected Species
NE.17 – Pollution Control
NE.20 – Flood Prevention
RES.7 – Affordable Housing
RES.3 – Housing Densities
RT.3 – Provision of Recreational Open Space and Children’s Playspace in New Housing Developments

CONSULTATIONS (External to Planning)

Environment Agency:

No comments.

Strategic Highways Manager:

The Strategic Highways Manager SHM provided a consultation response to the original application, which identified the following potential key issues in relation to the application:

1. Providing appropriate parking provision;
2. Ensuring appropriate access, including for service and refuse vehicles; and
3. Ensuring access by non-car modes.

It was concluded that Points 1 and 2, parking and access, did not raise sufficient concerns for the SHM to object to the application.

In relation to Point 3, Pedestrian Access, the following comments were made:

Connectivity to the nearest public footway in the plans provided would require residents to walk on the private shared surface on Wrens Close to reach a gate, which in turn provides access to a public footway located outside of the site. The use of this space as a pedestrian route to the new dwellings is not considered appropriate due to its use for parking and manoeuvring combined with its restricted width. In addition, it is not clear whether residents of the new development would have a right of access over this land to reach the gate connecting to the public footway.

To alleviate this concern, I would recommend that the existing pedestrian footway outside the site should be extended along the to the vehicular access, to run parallel to the metal fencing on Wrens Close. A recommended condition/informative wording is provided below:

Prior to first occupation the developer will construct and provide a 2.0 metre wide footpath fronting Peter Destapleigh Way to connect the joint use surface of Wrens Close to the existing footpath at the junction of Peter Destapleigh Way with Audlem Road.

Prior to first development the developer will enter into and sign a Section 278 agreement under the Highways Act 1980 with regard to the provision of a

footpath within the highway verge to link Wrens Close to the signal junction at Peter Destapleigh Way/Audlem Road.

The plans received with the resubmission do not appear to show any such footpath and no reference appears to have been made to satisfying this concern.

The SHM would reaffirm that the provision of a new footway will be required to ensure that the site is accessible by sustainable modes of travel, and would maintain the previous recommendation that a condition to this effect should be attached to any planning permission granted.

Subject to this recommendation, the SHM would raise no objection to the proposals.

Environmental Health:

Recommend conditions/informatives relating to contaminated land, noise generation, bin storage, electric vehicle infrastructure and travel plans.

Sustrans:

Would like to see contributions to a pedestrian/cycle track and travel planning.

United Utilities:

No objection subject to conditions.

VIEWS OF THE PARISH AND TOWN COUNCIL

Stapeley Parish Council has considered the above planning application and its comments are as follows:

(1) Concern that the application made no reference to Great Crested Newts, especially in view of the recent development of newt mitigation areas in the former Stapeley Water Gardens development.

(2) Requests Cheshire East Highways to examine the effect of this development, together with that at 69 Audlem Road, Nantwich as the Parish Council is concerned about increased traffic movement.

Nantwich Town Council object on the grounds that the site was not identified in the Town Strategy, is not a preferred site in the Core Strategy, it is not brownfield land, it will increase the housing figure for Nantwich and it would be detrimental to highway safety.

OTHER REPRESENTATIONS

At the time of report writing, approximately 8 objections have been received relating to this application. These can be viewed on the application file. They express concerns about the following:

- Highway safety

- Inadequate parking provision
- Access issues
- Problems on bin collection day
- Flood risk and drainage
- Noise generation
- Site is outside the settlement boundary (contrary to NE.2 and RES.5)
- The site is not a windfall site
- Impact on wildlife
- No affordable housing provision
- Loss of privacy and overlooking
- Overbearing development
- Loss of light
- Cramped development
- There is no common right of way along Wrens Close
- Too much development going on in the local area
- Poor design and boundary treatments
- Access should be provided to allow residents on Audlem Road to park to the rear of their properties
- Further development is not needed in Nantwich but in the north of the borough

These can be viewed on the application file.

OFFICER APPRAISAL

Principal of Development

The site lies within the Open Countryside as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policies NE.2 and RES.5 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a "departure" from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined "*in accordance with the plan unless material considerations indicate otherwise*".

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

Housing Land Supply

The National Planning Policy Framework (NPPF) confirms at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

“identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”.

The NPPF clearly states at paragraph 49 that:

“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- *specific policies in the Framework indicate development should be restricted.”*

Since the publication of the Housing Position Statement in February 2014 there have now been 5 principal appeal decisions (as of 1st August) which address housing land supply.

Each have concluded that the Council cannot demonstrate a five year supply of housing land, albeit for different reasons. Matters such as the housing requirement, the buffer and windfalls have all prompted varying conclusions to be made.

This demonstrates that there is not a consistent approach to housing land supply. The Planning Minister in a letter dated 14 July, noted that “differing conclusions” had been reached on the issue and requested that the Inspector in the Gresty Road appeal (Inquiry commenced 22 July) pay “especial attention” to all the evidence and provide his “considered view” on the matter.

The Planning Minister clearly does not consider the housing land supply position to be settled – and neither do the Council.

Given that some Inspectors are opting to follow the emerging Local Plan, the Council considers it essential that the correct and up to date figures be used. These are 1180 homes pa for “objectively assessed need” – and a housing requirement of 1200 homes pa, rising to 1300 homes pa after 2015. In future, calculations will be made on this basis.

Following the Planning Minister’s letter and in the absence of a consistent and definitive view, the Council will continue to present a housing land supply case based on the most up to date information. On this basis it is considered a 5 year supply is capable of being demonstrated. This position is supplemented with the knowledge that the Council continues to boost its housing land

supply position by supporting planned developments and utilising brownfield land wherever possible.

Open Countryside Policy

Countryside policies in existing local plans can be considered as consistent with NPPF and are not housing land supply policies in so far as their primary purpose is to protect the intrinsic value of the countryside in accordance with paragraph 17 of the NPPF– and thus are not of date, even if a 5 year supply is not in evidence. However, it is acknowledged that where the Council cannot demonstrate a 5 year supply, they may be out of date in terms of their geographical extent, in that the effect of such policies is to restrict the supply of housing. They accordingly need to be played into the planning balance when decisions are made. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Therefore, the proposal remains contrary to Open Countryside policy regardless of the 5 year housing land supply position in evidence at any particular time and a judgement must be made as to the value of the particular area of countryside in question and whether, in the event that a 5 year supply cannot be demonstrated, it is an area where the settlement boundary should be “flexed” in order to accommodate additional housing growth.

Sustainability

The National Planning Policy Framework definition of sustainable development is:

“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”

Accessibility is a key factor of sustainability that can be measured. A methodology for the assessment of walking distance is that of the North West Sustainability Checklist, backed by the Department for Communities and Local Government (DCLG) and World Wide Fund for Nature (WWF). The Checklist has been specifically designed for this region and relates to current planning policies set out in the North West Regional Spatial Strategy for the North West (2008).

The Checklist can be used by both developers and architects to review good practice and demonstrate the sustainability performance of their proposed developments. Planners can also use it to assess a planning application and, through forward planning, compare the sustainability of different development site options.

The criteria contained within the North West Sustainability Checklist are also being used during the Sustainability Appraisal of the Cheshire East Local Plan. With respect to accessibility, the toolkit advises on the desired distances to local facilities which developments should aspire to

achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

The toolkit sets maximum distances between the development and local amenities.

These comprise of:

- post box (500m),
- local shop (500m),
- playground / amenity area (500m),
- post office (1000m), bank / cash point (1000m),
- pharmacy (1000m),
- primary school (1000m),
- medical centre (1000m),
- leisure facilities (1000m),
- local meeting place / community centre (1000m),
- public house (1000m),
- public park / village green (1000m),
- child care facility (1000m),
- bus stop (500m)
- railway station (2000m).
- secondary school (2000m)
- Public Right of Way (500m)
- Children’s playground (500m)

The application has not included such an assessment, but puts forward the argument that the site is in close proximity to Nantwich Town Centre and the facilities and services available there.

It is considered that as the site lies adjacent to existing residential development in Nantwich, it would therefore be difficult to uphold a reason for refusal on the grounds of the site not being in a sustainable location.

Affordable Housing

The Interim Planning Statement on Affordable Housing (IPS) states that in settlements of 3000 or more affordable housing provision will be sought on sites of 0.4 hectares or more or 15 dwellings or more. The site is in Nantwich and is a proposal for 11 units on a site of 0.33 hectares. The site size and dwelling numbers do not meet the threshold to trigger an affordable housing requirement.

Highways Implications

The Strategic Highways Manager (SHM) is satisfied that there is adequate parking provision within the site and that the access is acceptable. A Swept Path Analysis has also been provided to demonstrate that a refuse vehicle could enter and leave the site in a forward gear.

Having regard to pedestrian access the SHM has concerns that pedestrian access along Wrens Close would not be appropriate and that there may not be right of access across that land. He therefore recommends that the developers should provide a pedestrian footway to Peter Destapleigh Way. Private access rights are not a planning matter and it would not be possible to require the provision of the footpath as the land is not in the control of the applicant.

It is not considered that the concerns about pedestrians using Wrens Close are severe given that it is a small street with just 5 dwellings. As such it would not be reasonable to refuse the application on these grounds.

Amenity

The proposed layout of the site means that the dwellings on plots 6-11 would have rear elevations directly facing the existing properties on Wrens Close. Some of these properties have conservatories and it is considered that adequate screening is proposed by the 1.8m screen fence shown on plan number 110. The distances between first floor windows to main rooms would fall just short of what is generally accepted as an acceptable separation distance (21m) by 1 metre and whilst this is not ideal, these distances are used as a guide and it is considered that a reason for refusal on these grounds would be difficult to sustain.

Having regard to the amenity of future occupiers of the dwellings, adequate private residential amenity space could be provided, as could bin storage. The proposal is therefore considered to be acceptable in these terms.

Trees & Landscape

The site adjoins the gardens of existing residential properties to the north and west with a mix of hedged and fenced boundaries and is contained by a hedgerow on the eastern boundary although this hedge is gappy and contains a high proportion of Elm. It is considered the site has the landscape capacity to accommodate the development proposed although there would be impacts on the outlook from some adjoining properties.

In the event of approval it would be important to secure appropriate boundary treatments with the retention of existing boundary hedges where possible and in particular a green edge to the east.

Should it be necessary to provide a secure boundary to the east of plot I until the hedgerow is re-established following coppicing/replanting (see below), a temporary fence may be required but the Council would not wish this to be prominent or permanent. The site plan shows a 1.8 m fence on the side of the recently established northern hedge bordering gardens in Wren Close. If the hedge is not within the curtilage of these properties, this proposal may cause problems for long term management and retention.

A comprehensive landscape scheme would be required. This could be dealt with by condition.

The submission is supported by an Arboricultural Implications Assessment (AIS) dated 15/11/13. A tree survey covers 4 lengths of hedge and 5 trees. The AIS suggests the tree and hedgerow cover that exists is predominantly poor with the exception of the recently established boundary planting to the rear of 1-4 Wrens Close. The AIS indicates that two small fruit trees would be retained and the remaining trees removed as part of the development (although the submitted site

layout plan 1851-110 shows all retained). Hedges would be retained (where these are in the control of the applicant) and protected however, there is a recommendation that the eastern boundary hedge (a gappy remnant hedge dominated by elm regeneration) is coppiced and gaps planted up.

Officers agree that the tree quality is low and have no concerns regarding the removal of the specimens identified. Coppicing the eastern boundary hedge would reduce its screen value in the short term however; there would be an opportunity to secure management and replanting on this boundary by condition.

A condition would also be appropriate to secure the protective fencing for the retained vegetation as indicated in the AIS.

Design

This is a full planning application that should be assessed in terms of its design and proposed layout.

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

The proposed dwellings would be of a relatively traditional design with pitched roofs and gable features and would be constructed from brick and tile. This is considered to be appropriate and in keeping with the character and appearance of the local area, specific details of the materials should be controlled by condition.

Ecology

Great Crested Newts

Whilst great crested newts are known to widespread in this part of Nantwich however the proposed development is too remote from any ponds for great crested newts to be likely to be present on site. No further action is required in respect of this species.

Grassland Habitats

The grassland habitats on site are of relatively low value and do not present a significant constraint upon development. The development proposals however may still result in an overall loss of biodiversity. It is therefore recommended that the residual impacts of the development be off-set by means of a commuted sum that could be utilised to fund off site habitat creation/enhancement potentially within the Meres and Mosses Nature Improvement Area.

The suggested method of calculating an appropriate commuted sum is based on the Defra report ‘Costing potential actions to offset the impact of development on biodiversity – Final Report 3rd March 2011’):

The loss of habitat (Semi improved grassland) amounting to roughly 0.3ha.

Cost of creation of Lowland Grassland 0.3ha x £11,291.00 (cost per ha) = £3,387.90 (Source UK BAP habitat creation/restoration costing + admin costs)

Hedgerows

Hedgerows are a Biodiversity Action Plan priority species and hence a material consideration. The existing hedgerow on the eastern boundary of the site will be retained and enhanced as part of the proposed development.

Bats

The application site is likely to support foraging and commuting bats however it is considered that the site is unlikely to be significantly important for this species group.

Reptiles

Grass snakes have been recorded within the broad location of the proposed development site and the submitted report identifies the application site as having potential to support reptile species. The subsequent report stated that there was no evidence of reptiles recorded during the survey and as such Officers are satisfied that this species group is unlikely to be present on site or affected by the proposed development.

Hedgehogs

The submitted report has identified the potential for Hedgehogs a UK Biodiversity Action Plan species to occur on site, however no evidence of this species was recorded during the submitted survey. The submitted report includes suitable mitigation proposals to address the potential impacts of the proposed development upon this species.

Breeding Birds

If planning consent is granted standard conditions will be required to safeguard breeding birds.

Education

The Education Department have been consulted on this application but as yet a response has not been received. This is being pursued by the case officer and an update will be provided prior to Committee debating the application.

Agricultural Land

Policy NE.12 (Agricultural Land Quality) of the Crewe and Nantwich Replacement Local Plan has been saved. The National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

The supporting statement submitted with the application states does not address this issue. However; given the scale of the proposal and limited size of the site, it is not considered that its loss would be significantly detrimental.

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.

As explained within the main report, off-site contributions to habitat creation/enhancement would help to make the development sustainable and is fair and reasonable.

Other issues

The objectors have raised issues relating to rights of way across land. This is a private matter and not a material planning consideration.

CONCLUSIONS

The site is within the Open Countryside where under Policy NE.2 there is a presumption against new residential development. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development. However, the Council can now demonstrate a five year housing land supply. This issue will form a reason for refusal.

The proposal does not accord with the Cheshire East Local Plan Strategy – Submission Version.

The scheme is acceptable in all other forms apart from open countryside policy and housing land supply and the previous reason for refusal relating to lack of information on reptiles has satisfactorily been addressed.

However, these are considered to be insufficient to outweigh the harm that would be caused in terms of the impact on the open countryside, and as a result, the proposal is considered to be unsustainable and contrary to policies NE2 of the local plan and Policy PG 5 of the Cheshire East Local Plan Strategy – Submission Version.

RECOMMENDATIONS

REFUSE:

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, Policy PG 5 of the Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also contrary to the emerging**

Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.

In order to give proper effect to the Board`s/Committee`s intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chair (or in her absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

Should this application be the subject of an appeal, authority be delegated to the Principal Planning Manager in consultation with the Chair/Vice Chair of the Southern Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

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