

Application No: 14/3487N
Location: Karibu, BUNBURY ROAD, ALPRAHAM, CW6 9JD
Proposal: Proposed dwelling adjacent to Karibu, Bunbury Lane, Alpraham
Applicant: D Evans
Expiry Date: 15-Sep-2014

SUMMARY RECOMMENDATION: Approve subject to conditions

MAIN ISSUES:

- Key Issues;
- Site History
- Principal of development;
- Design;
- Amenity;
- Private Amenity Space;
- Ecology;
- Highways;
- Flooding;
- Drainage; and
- Landscape

REFERRAL

This application was to be dealt with under the Council's delegation scheme. However, Councillor Jones has requested that it be referred to Committee for the following reason:-

The proposed development will have a detrimental impact on the residential amenity of the neighbouring property and will be out of character within the streetscene and the wider environ.

SITE DESCRIPTION AND DETAILS OF PROPOSAL

The application site forms part of a garden belonging to Karibu, which is a relatively large detached bungalow constructed out of facing brick under a tile roof. The application site is currently laid to lawn and includes a number of fruit bearing trees. The site is located wholly within the open countryside. This is a full application for a single detached dwelling and land adjacent to Karibu, Bunbury Lane, Nantwich

PREVIOUS RELEVANT DECISIONS

13/5083N - Proposed dwelling adjacent to Karibu, Bunbury Lane, Alraham – Refused – 6th February 2014

7/09768 – Timber Stable Block – Approved – 24th February 1983

7/15507 – Extension and Alterations – Approved – 9th June 1988

PLANNING POLICIES

National Policy

The application should be determined in accordance with national guidance set out in:

National Planning Policy Framework

Local Policy

The principle issue surrounding the determination of this application is whether the development is in accordance with the following policies within the Borough of Crewe and Nantwich Replacement Local Plan 2011:

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

BE.6 (Development on Potentially Contaminated Land)

TRAN.9 (Car Parking Standards)

NE.2 (Open Countryside)

NE.5 (Nature Conservation and Habitats)

NE.9 (Protected Species)

RES.5 (Housing in the Open Countryside)

Other Material Considerations

SPD Development on Backland and Gardens

Cheshire East Local Plan Strategy - Submission Version

PG2 – Settlement Hierarchy

PG5 - Open Countryside

PG6 – Spatial Distribution of Development

SD1 - Sustainable Development in Cheshire East

SD2 - Sustainable Development Principles

SE3 – Biodiversity and Geodiversity

SE5 – Trees, Hedgerows and Woodland

SE 1 - Design

SE 2 - Efficient Use of Land

SE 4 - The Landscape

SE 5 - Trees, Hedgerows and Woodland

SE 3 - Biodiversity and Geodiversity

SE 13 - Flood Risk and Water Management
SE 6 – Green Infrastructure
IN1 – Infrastructure
IN2 – Developer Contributions

The above Policies are consistent with the Crewe and Nantwich Local Plan

OBSERVATIONS OF CONSULTEES

Highways: No objections

Ecology: No objections

Environment Agency: No objections

Environmental Health: No objections raised subject to an informative relating to hours of construction.

Contaminated Land: No objection subject to the imposition of the standard informative

VIEWS OF THE PARISH / TOWN COUNCIL:

Alraham parish Council has reviewed the new planning application along with the appeal decision from the 3rd of July 2014. The appeal states the 'site does represent a small gap in an otherwise built up frontage and therefore the proposed development would accord with Policies RES5 and NE2 of CNLP.' The appeal also notes the proposed development is of a scale in keeping with other properties in the vicinity. The single concern raised was the proximity of the development to the neighbouring property Amberlee.

On reviewing the new application the proposed development has moved position and is now central between Karibu and Amberlee. The distance from Amberlee has therefore increased and the impact on the residents of Amberlee will be reduced.

Given the facts that the site is deemed a small gap and infill, that the proposed development is in keeping with neighbouring properties, that the site does not enter directly onto the A51 and that the positioning between neighbouring properties has improved Alraham Parish Council support this application.

OTHER REPRESENTATIONS:

1 letter of representation has been received. The salient points raised are as follows:

Paragraph 4.11 States ALL LAND OUTSIDE THE SETTLEMENT BOUNDARIES DEFINED ON THE PROPOSALS MAP WILL BE TREATED AS OPEN COUNTRYSIDE...I have checked this Map and Alraham Village Settlement Boundary does not contain any Houses on Bunbury Road just the Ribbon Development on the A51. Therefore Karibu is in Open Countryside and the proposed site a Garden.

Paragraph 4.11 States an exception may be made where there is a gap with one or two dwellings in an otherwise built up frontage.

How can the Appeal Planning Inspector Alison Partington in Paragraph 9 of Appeal Decision class three houses Randomly Spaced with Gardens at different Building Line Angles along the right hand side of Bunbury Road as " An Otherwise Built up Frontage" ? , The Planning Inspector Alison Partington is in my opinion miss guided as it is not "Reasonable" that she considers the Gap of some 45m in between our two properties as a small gap in an otherwise built up frontage ? This goes against all Cheshire East Councils Planning Policy to prevent building in Open Countryside and Developing on Garden Plots.

The original Karibu Planning Application Appeal was dismissed on 23rd June 2014 on the grounds of contravening Policies BE1 & BE2 of the Crewe and Nantwich Local Plan by having a detrimental impact on the living conditions of our home Amberlee by the loss of Outlook and Sunlight. Although the Footprint of the proposed Dwelling has moved some 6 metres this will not prevent this still happening as stated by the British Research Establishment (BRE)document "Site Layout Planning for Daylight and Sunlight": A guide to good practice (2011). The BRE Guide explains that Sunlight availability may be adversely affected if the centre of our three Ground Floor Windows on the South Facing Elevation receive less than 25% of Annual probable Sunlight hours, or less than 5% of annual probable sunlight hours between 21st September and 21st March. As this is very likely as our habitable Ground Floor room Windows face South and with the Proposed Dwelling in between the low Winter Sun on the horizon and our windows. I would request that Cheshire East Council defer the Planning Permission decision until they undertake an assessment of Sunlight which may affect Amberlee's homeowners living conditions. The BRE Guide also states that sunlight availability may be adversely affected if Windows receive less than 0.8 times its former Sunlight during either period and has a reduction in Sunlight received over the whole year greater than 4% of annual probable Sunlight hours. Furthermore the Proposed Dwelling in the Garden of Karibu will have an Overbearing impact on Amberlee as it will dominate the Outlook from or Three Ground Floor habitable room windows. Together with the Noise from the Back door of the proposed dwelling being so close to Amberlee and the North Elevation Windows of the Proposed dwelling overlooking Amberlee which will result in lack of Privacy.

Newts can be found in the Gardens along Bunbury Road as it is a low lying area and prone to Water retention. Karibu had a Pond in the Garden Plot before it was filled in in October 2013. I inadvertently killed one with my Lawnmower in April 2014 this year in the long Grass at the first cut of the year. I would recommend that Cheshire East Council carry out a Newt Survey prior to any planning permission decision being made. Furthermore Cheshire East's Borough of Crewe and Nantwich Replacement Local Plan 2011 section NE.2 OPEN COUNTRYSIDE

Paragraph 4.11 States ALL LAND OUTSIDE THE SETTLEMENT BOUNDARIES DEFINED ON THE PROPOSALS MAP WILL BE TREATED AS OPEN COUNTRYSIDE...I have checked this Map and Alpraham Village Settlement Boundary does not contain any Houses on Bunbury Road just the Ribbon Development on the A51. Therefore Karibu is in Open Countryside and the proposed site a Garden.

APPLICANT'S SUPPORTING INFORMATION:

No supporting information

OFFICER APPRAISAL

Main Issues

The main issues are the principle of development, design and layout, impact on highway safety, living conditions, ecology, trees and landscape.

Site History

A similar application was recently refused on the 6th February 2014 under delegated powers (13/5083N) for the following reasons:

'The application seeks full planning permission for a new dwelling within the Open Countryside. The proposal is not essential for the purposes of agriculture, forestry, outdoor recreation, works by statutory undertakers, or other uses appropriate to a rural area; and does not meet the exception of policy NE2 (Open Countryside) which allows the infilling of a small gap with one or two dwellings in an otherwise built up frontage. The application site would amount to a new dwelling within the open countryside, in an unsustainable location. The dwelling is not of an exceptional quality or innovative nature of the design and therefore would not meet any of the special circumstances set out in the National Planning Policy Framework which would permit a new dwelling in the open countryside. It is therefore considered that the proposed development would have a significantly adverse effect on the open countryside and therefore the provision of one new dwelling would not outweigh the harm. The development is therefore contrary to Local Plan policies NE2 (Open Countryside) and RES5 (Housing in the Open Countryside) and the National Planning Policy Framework and is recommended for refusal accordingly.'

'In the opinion of the Local Planning Authority the proposed dwelling would cause demonstrable harm to the residential amenities of the occupiers of Amberlee. It is considered the proximity of the development to the boundary of the neighbouring property would result in an un-neighbourly and overbearing form of development. The proposal is therefore considered to be an inappropriate development of a residential. The proposed development would therefore be contrary to Policies BE.1 (Amenity) and BE.2 (Design Standards) of the Borough of Crewe and Nantwich Replacement Local Plan 2011, guidance contained within the Local Development Framework Development on Backland and Gardens SPD (2008) and guidance contained within the National Planning Policy Framework 2012.'

Principle of Development.

The site is located wholly within the open countryside, local plan policy NE.2 explains that there is a presumption against development unless it is essential for the purposes of agriculture, forestry, outdoor recreation or other uses or works appropriate within a rural area. Policy RES.5 stipulates that outside the settlement boundaries new dwellings will be restricted, inter alia, to those that, meet the criteria for infilling (Policy NE.2). Proposals for new residential development within the open countryside comprising of one or two dwellings may be appropriate where there is an opportunity to infill a small gap within an otherwise built up frontage.

The agent has intimated that Policies RES.5 (Housing in the Open Countryside) and NE.2 (Open Countryside) are no longer valid as the Council can not demonstrate that they have a 5 year housing land supply as required by paragraph 14 of the National Planning Policy Framework (NPPF).

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.

Gap

Development along this stretch of Bunbury Lane is characterised by ribbon development and is of a scattered and sporadic nature. In addition there are varying styles of house types which have been erected in the 1960’s/70’s and many older cottages. It is noted that the adjacent property Amberlee is of relative modern construction. The application site is approximately 28m in width. Although the Local Plan does not define what constitutes a ‘small gap’, the question has been considered on many occasions by Inspectors at Appeal.

The Inspector on the recent Appeal decision stated ‘The existing houses along the lane are large dwellings set in generous sized plots which have substantial frontages to the road, with the existing frontage of Karibu being approximately 93m. The proposed site would have a frontage of approximately 28m, leaving that of Karibu as approximately 65m. Although in many circumstances 28m would not constitute a small gap, it needs to be judged in the context of each site. In this case, in the context of other lengthy frontages, I consider it can be judged as a small gap in the frontage. This conclusion is supported by the fact that in order for the proposed dwelling to be of a scale and mass similar to other houses along the road, the development of the site would only result in the creation of a single dwelling’.

The Inspector clearly states that they consider that the proposal does constitute a small gap in an otherwise built up frontage. The Inspectors decision is a strong material consideration which carries significant weight. There has not been any changes in policy or other circumstances since the Inspectors decision and it is considered in light of the above factors that the proposal does constitute

a small gap and as such the proposal accords with policies NE.2 (Open Countryside) and RES.5 (Housing in the Open Countryside)'.

Design

The design of new development should be of a high standard and wherever possible the built environment and surroundings should be enhanced. It is important that the relationship with the existing street scene is considered and improved, and not harmed by new development. (SPD – Development on Backland and Gardens: paragraph 3.5)

Looking at the full length of Bubury Lane there is no strong building line in the area, and a number of other properties are located much closer to the highway than the proposal, for example, Rose Cottage and The Gable Cottage, whereas, others are set further back into their plot, i.e. The Willows and Karibu. The proposed dwellinghouse would be located to the north of the applicants property, which is a large detached bungalow which is shaped like a cross in footprint terms (albeit slightly offset).

The scale of development in the general area is a mixture of detached bungalow, cottages and two storey detached houses. The dwelling would be read against its immediate neighbour Karibu which is a large detached bungalow and Amberlee which is a large two storey detached dwellinghouse.

The proposed dwelling is located close to the front of the site, with hard standing to the frontage and the private amenity space to the rear. The footprint of the proposed dwellinghouse would be roughly letter 'L' shaped. The proposal would measure approximately 10.3 wide and 18.9m deep (at the widest points) and is 4.5m high to the eaves and 6.6m high to the apex of the pitched roof. According to the submitted plans the building will incorporate pitched roofs, dormer and catslide roof. In addition, the property will incorporate two chimneys which would give the property a vertical emphasis and help draw the eye. According to the application forms the building would be constructed out of facing brick under a tile roof and a condition relating to materials would be attached to the decision notice. The windows would retain the visual hierarchy with larger windows located at ground floor level and smaller ones above them. It is considered that the fenestration would be relatively simple. Overall, it is considered that the proposal would not appear out of keeping with the local vernacular and would not appear as a discordant and incongruous feature out of keeping with the locality. Furthermore, the scale, bulk and massing would be in keeping with the character for the area.

Internally the ground floor accommodation will comprise utility room, cloakroom, snug, kitchen, dining area, living room and garage. The first floor accommodation will comprise 4no. bedrooms, bathroom and ensuite.

Amenity

Policy BE.1 states that development will be permitted provided that the development is compatible with surrounding land uses, does not prejudice the amenity of future or neighbouring occupiers, does not prejudice the safe movement of traffic and does not cause an increase in air, noise, water pollution which might have an adverse impact on the use of land for other purposes.

It is noted that the proposed dwellinghouse has been re-sited and is located more centrally within its plot in relation as opposed to previously refused application. Furthermore, the gable of the proposed

dwellinghouse faces Amberlee. Located to the north of the application is Amberlee, which as previously stated is a large detached two storey residential property. There are a number of windows on the side elevation of this property (Amberlee) facing the application. Several of these windows at ground floor level are principal room windows serving habitable rooms. However, it is considered that the existing boundary treatment (Native hedgerow approx. 1.8m high) will help to mitigate any loss of residential amenity. Located at first floor level is another principal room window serving a bedroom and there is a distance of approximately 13.5m separating the two properties, which is in accordance with the Councils SPD. It is considered that the separation distance is sufficient and the proposal will not appear over bearing and will not cause demonstrable harm to the residential amenities of the occupiers of Amberlee.

It is not considered that the proposal will result in any demonstrable harm to the residential amenities of other properties in the locality.

Private Amenity Space/Density

According to the submitted plans the dwellinghouse would have a proportion of private amenity space located to the rear. The Supplementary Planning Document 'Development on Backland and Gardens' states at paragraph 3.35 'dwellinghouses should have adequate open space provided; as a general indication/guideline this should be no less than 50m² per dwelling. The 50m² garden area excludes any parking provision which may have been made for the dwelling. The amount of garden area provided should be proportional with the size of the dwelling proposed. There should be sufficient open space provided to enable general activities such as drying of washing, storage of dustbins, play space for small children and sitting outside to take place in a private area'.

It is considered that the proposed layout would not represent an over intensive development of the site in relation to the prevailing pattern and scale of the residential development and due to the amount of provision of external amenity space for the potential occupiers of the site. The amount of private amenity would be in excess of 50m² and would be commensurate with other properties in the immediate locality.

Ecology

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

- In the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment

and provided that there is

- no satisfactory alternative and
- no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implements the Directive in the Conservation of Habitats & Species Regulations 2010 which contain two layers of protection a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements above, and

- a licensing system administered by Natural England.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. “This may potentially justify a refusal of planning permission.”

The Councils ecologist has been consulted and states that *‘I understand that a pond was previously present on this site but that this was removed prior to the submission of this application. The former pond may have had nature conservation value and there are anecdotal records of great crested newts in this vicinity. The value of the former pond is difficult to assess, however the application is likely to be of limited value for great crested newts.*

I advise that on balance there are unlikely to be any significant ecological issues associated with the proposed development.

I recommend that a new wildlife/garden pond be incorporated into the development to deliver a nature conservation benefit in accordance with the NPPF’. Therefore, it is considered in light of the above that the proposal is in accordance with policy NE.9 (Protected Species).

Highways

According to the submitted plans the proposal is to utilise the existing access/egress arrangements, which currently serves the applicants property. According to the submitted plans there is sufficient space within the curtilage of the proposed dwelling for at least two vehicles to be parked clear of the public highway and enough space for them to manoeuvre so that vehicles can enter/leave in a forward gear. Colleagues in Highways have been consulted regarding the proposal and no objections have been raised. Overall, it is considered that there is insufficient justification to warrant a refusal on highway safety grounds and sustain it at any subsequent Appeal. Overall, it is considered that the proposal complies with Policy BE.3 (Access and Parking).

Flooding

The objector has stated that the application site and their property is subject to flooding. Whilst the concerns of the objector are noted, colleagues in the Environment Agency have been consulted and raise no objection to the proposal.

Drainage

Development on sites such as this generally reduces the permeability of at least part of the site and changes the site’s response to rainfall. Advice advocated within the NPPF states that in order to satisfactorily manage flood risk in new development, appropriate surface water drainage arrangements are required. The guidance also states that surface water arising from a developed site should, as far as possible, be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development. It is possible to condition the submission of a satisfactory drainage scheme in order to ensure that any surface water runoff

generated by the development is sufficiently discharged. This will probably require the use of Sustainable Drainage Systems (SUDS) which include source control measures, infiltration devices as well as filter strips and swales which mimic natural drainage patterns. Overall, it is considered that the application is in accordance with policy BE.4 (Drainage, Utilities and Resources).

Landscape

Policy NE.5 (Nature Conservation and Habitats) states that the LPA will protect, conserve and enhance the natural conservation resource. The policy goes on to stipulate in the justification 'Landscape features can be important individually, as well as helping to enrich the character of the landscape. These features should be conserved wherever possible'. In the event that planning permission is approved a condition will be attached to the decision notice regarding the retention of the native hedgerow along the site frontage and normal landscaping conditions to help assimilate the proposal into the local environ. It is acknowledged that a large mature tree was felled prior to the application being submitted. However, the tree was not located within a conservation area or protected by a TPO, therefore, whilst the loss of the tree is regrettable it was not afforded any statutory protection.

CONCLUSIONS AND REASON(S) FOR THE DECISION

The Local Planning Authority considers that the proposed residential development is an appropriate form of development. The proposed dwelling (as conditioned) would be sympathetic to the surrounding area and would not be harmful to the amenities of neighbouring properties and has provided satisfactory parking provision. Therefore the proposed development complies with Policies BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Access and Parking), NE.2 (Open Countryside), NE.5 (Nature Conservation and Habitats), NE.9 (Protected Species) and RES.5 (Housing in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and advice advocated within the National Planning Policy Framework.

Approve subject to conditions:

- 1. Standard time limit**
- 2. Plan References**
- 3. Materials to be submitted and agreed in writing**
- 4. Boundary Treatment to be submitted and agreed in writing**
- 5. Landscaping to be submitted and agreed in writing**
- 6. Landscaping Implemented**
- 7. Hedgerow protection to be submitted and agreed in writing**
- 8. Drainage to be submitted and agreed in writing**
- 9. Car Parking to be submitted and agreed in writing**
- 10. Details of the pond to be constructed to be submitted and agreed in writing**
- 11. External Lighting to be submitted and agreed in writing**

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.

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