

Application No: 15/1745N

Location: Land east of Butt Green House, Wybunbury

Proposal: Outline planning permission sought for proposed erection of two detached dwellings.

Applicant: Messrs Whittingham, Jones and Munroe

Expiry Date: 11-Jun-2015

CONCLUSION:

The proposal is considered to be acceptable in principle, given that the site is located at the end of an established linear form of development, as well and is in close proximity to services and facilities accessible via public transport. It is considered therefore that on balance, the proposal would outweigh the limited conflict with local plan policy in terms of its location within the open countryside and would represent a sustainable form of development.

The development would assist the Council's 5 year housing land supply position and would promote modest economic growth whilst fulfilling the social dimension of sustainability.

It is considered that these considerations would outweigh the proposals conflict with the adopted local plan in terms of the site location which lies outside the settlement boundary. Furthermore, it is considered that any harm arising from these issues would not be substantial or demonstrable, and therefore the presumption in favour of development, under paragraph 14 of the NPPF applies.

The proposal is made in outline with approval for access. Highway Authority raises no objections subject to a condition to secure the required visibility splays. Matters relating to design and layout are reserved for future consideration, however it is considered that the application site is capable of comfortably accommodating 2 no. dwellings and private amenity space whilst respecting the character and appearance of the locality.

The impact of the proposal on the existing trees and TPO's is considered to be acceptable at this stage subject to further information submitted at reserved matters. The application is considered to have an acceptable impact on the sites ecology subject to conditions.

SUMMARY RECOMMENDATION:

Approve subject to conditions

PROPOSAL:

The proposal seeks outline planning permission and approval for access for 2 no. detached dwellings.

SITE DESCRIPTION:

The application site is a portion of greenfield land lying east of Butt Green House along Wybunbury Lane and within the open countryside.

Mature trees and hedgerows run along the site boundaries. The trees on the Wybunbury Lane frontage are subject to TPO protection.

Planning permission has recently been granted by appeal (APP/R0660/A/14/2224640) for 4 no. detached dwellings on land directly south of the application site.

RELEVANT HISTORY:

None.

NATIONAL & LOCAL POLICY

National Policy:

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs:
17, 49 & 55

Development Plan:

The Development Plan for this area is the Borough of Crewe and Nantwich Local Plan 2011.

The relevant Saved Policies are: -

NE.2 - Open Countryside

NE.5 – Nature Conservation

BE.1 - Amenity

BE.2 - Design Standards

BE.3 - Access and Parking

BE.4 – Drainage, Utilities and Resources

RES.5 - Housing in the Open Countryside

TRAN.9 - Car Parking Standards

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

Policy MP1 – Presumption in Favour of Sustainable Development

Policy PG 5 - Open Countryside

Policy SD 1 - Sustainable Development in Cheshire East

Policy SD 2 - Sustainable Development Principles

Policy EG 2 - Rural Economy

Policy SE 1 – Design

Policy SE 2 – Efficient Use of Land

Policy SE 4 - The Landscape

Policy SE 5 - Trees, Hedgerows and Woodland

Supplementary Planning Documents:

Development on Backland and Gardens

CONSULTATIONS:

Highway Authority: No objection subject to a condition regarding visibility splays.

Environmental Health: No objection subject to pre-commencement conditions requiring a method statement for any piling work, dust suppression scheme and written confirmation on the status of any contaminated land on the site. Compliance condition relating to hours of work is also suggested.

View of the Parish/Town Council: No comments received at the time of writing.

REPRESENTATIONS:

Four objections received (2 from the same property).

Concerns raised include adverse impact on highway safety, visibility splays required not achievable, impact on existing visual amenity, impact on existing TPO's on the boundary, loss of existing residential amenity, inadequate parking provision, incursion into open countryside,

APPRAISAL:

The key issues are:

Principle of Development

Character, Appearance and Landscaping

Residential Amenity

Access and Parking

Trees

Ecology

Principle of Development

The application site is a Greenfield site lying outside the settlement boundary. This represents a departure from adopted local plan policy.

Sec.38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications and appeals must be determined "*in accordance with the plan unless material considerations indicate otherwise*". The most important consideration in this case is the National Planning Policy Framework (NPPF).

(i) Housing Land Supply

Paragraph 47 of the National Planning Policy Framework requires that Council's identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements.

The calculation of Five Year Housing supply has two components – the housing requirement – and then the supply of housing sites that will help meet it. In the absence of an adopted Local Plan the National Planning Practice Guidance indicates that information provided in the latest full assessment of housing needs should be considered as the benchmark for the housing requirement.

Following the suspension of the Examination into the Local Plan Strategy and the Inspectors interim views that the previous objectively assessed need (OAN) was 'too low' further evidential work has now taken place and a fresh calculation made.

Taking account of the suggested rate of economic growth and following the methodology of the NPPG, the new calculation suggests that need for housing stands at 36,000 homes over the period 2010 – 2030. Although yet to be fully examined this equates to some 1800 dwellings per year.

The 5 year supply target would amount to 9,000 dwellings without the addition of any buffer or allowance for backlog. The scale of the shortfall at this level will reinforce the suggestion that the Council should employ a buffer of 20% in its calculations – to take account 'persistent under delivery' of housing plus an allowance for the backlog.

While the definitive methodology for buffers and backlog will be resolved via the development plan process this would amount to an identified deliverable supply of around 11,300 dwellings.

This total exceeds the total deliverable supply that the Council is currently able to identify – and accordingly it remains unable to demonstrate a 5 year supply of housing land.

(ii) 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.

Consequently, the main issues in the consideration of this application are the sustainability of the site and whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in terms of housing land supply.

(iii) Sustainability

Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development.

Paragraph 34 of the NPPF states that decisions should ensure that developments that generate travel movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

Paragraph 55 of the National Planning Policy Framework states that housing should be located where it will enhance or maintain the vitality of rural communities, for example development in one village may support services in a village nearby.

The application site is located directly adjacent to Nantwich Settlement Boundary.

Nantwich has a range of services and facilities including primary and secondary schools, convenience stores, surgery and church. The services are accessible from the application site via foot or a short bus journey, given the site is located approximately 480m south east from the nearest bus stops.

Owing to its position on the edge of Nantwich, it is acknowledged that the services would not be as near to the development as existing dwellings which are more centrally positioned. Nevertheless this is not untypical for suburban dwellings and the proposal would lie at the end of a small but established linear form of development along the Wybunbury Lane frontage and within approximately 700m of the nearest services mentioned above, accessible via public transport and by foot.

The site is located approximately 1.5km south east of the edge of Nantwich Town Centre, which has yet a wider range of services and facilities including a train station, retail stores and leisure and entertainment facilities. The bus stops located approximately 480m north-west of the site provide regular services to the town centre.

In addition to its locational sustainability, the proposal would supply 2 no. market housing directly adjacent to the Nantwich Settlement Boundary which is considered would help to fulfil the social dimension of sustainability within the NPPF, as well as contributing to housing supply

in the local area. The proposal would also help to support the local economy as well as generating employment during the construction phase of development.

A recent appeal decision relating to planning application 14/1139N for a residential scheme for 4 no. dwellings located in the field directly south of the site stated that the appeal site is sustainable in locational terms, given its proximity to services and facilities. The Inspector considered that the addition of 4 no. further dwellings would also help to fulfil the social, economic and environmental dimensions of sustainable development. The Inspector afforded substantial weight to the Authorities lack of a 5 year deliverable housing supply in reaching her decision and considered that in addition to the sustainability credentials of the proposal, this would outweigh the loss of the open countryside in this location.

Therefore, having regard to the housing land supply, it is considered that on balance, the proposal would outweigh the limited conflict with local plan policy in terms of its location within the open countryside and would represent a sustainable form of development.

Character, Appearance and Landscaping

The application is made in outline, therefore design and layout considerations have been reserved for future consideration.

Given the plot size, the site is considered to be capable of accommodating 2 no. new dwellings and adequate amenity space without appearing cramped or incongruous in this location.

Existing properties along Wybunbury Lane are set back from the main road with front gardens, private driveways and defined boundary treatments, particularly along the road frontage. This should be taken into consideration when designing the layout and landscaping elements of the scheme, to ensure that the properties do not appear discordant within the street scene.

The vernacular in the immediate area is loosely defined, with dwellings comprising bungalows and two storey properties and roof types comprising pitched and hipped. Material finishes are brick and render with dark slate roof tiles. Detached and integral garages are also prevalent.

The properties to the side and rear of the site are two storey detached dwellings and the scale and design of the proposal should take this into account, to ensure the development is commensurate to the existing immediate context.

Conditions relating to design and layout are not considered appropriate, given details would be considered under a future reserved matters application.

Residential Amenity

It is considered that 2 no. dwellings could be sited comfortably on the plot, whilst meeting the required separation distances to neighbouring properties and providing sufficient private amenity space within the curtilage, as set out in the Authorities SPD on 'Development on Backland and Gardens'.

Detailed boundary treatments would be considered at reserved matters stage. Should the application be approved, conditions securing details and methods of piling operations, a dust

suppression scheme, construction hours and contaminated land are considered reasonable to attach to the permission.

Access and Parking

The indicative Site Plan shows a shared access to both properties would be provided off Wybunbury Lane.

The plot size is considered capable of accommodating sufficient parking provision for a minimum of three vehicles per property, as well as providing adequate turning space in a forward gear.

The Head of Strategic Infrastructure raises no objection to this development subject to a condition to secure the required visibility splay for the access into and out of the site. To this effect, the visibility splays shall measure 2.4m x 160m in the leading direction and 2.4m x 120m in the non leading direction, with no obstruction beyond 1m in height within the splays.

Trees

Further information was requested in regards to the impact of the development on the loss of the roadside hedgerow and the existing mature trees on the site boundaries, which includes TPO's along the site frontage.

Following receipt of the revised arboricultural impact assessment on 28th May, the Tree Officer considers that the proposed access to the site could be accommodated without significant impact on the protected trees. Full impacts would need to be identified at reserved matters stage and the submission would need to include existing and proposed site levels, service routes and a comprehensive package of arboricultural data relevant to the final design. These can be secured by condition.

Ecology

No other protected species activity was recorded during the Ecological Surveys undertaken on the application site however the status of other protected species can change on a site in a short timescale. A condition would be attached to any grant of planning permission requiring any future reserved matters application to be supported by an updated protected species survey.

Hedgehogs and polecats have been recorded in the broad locality of the application site. However there is no evidence to suggest that the application site is particularly important for them. To ensure the proposed development does not inhibit the movement of these species a condition would be attached to a grant of consent to incorporate gaps for hedgehogs into any garden or boundary fencing.

Conditions to safeguard nesting birds are considered appropriate should consent be granted.

The ecological report indicates there is evidence to suggest that the hedgerow which borders Wybunbury Lane may have formed an integral part of a field system pre-dating the Enclosure

Act. On this basis the hedgerow would be judged 'Important' under the Hedgerow Regulations 1997 which would be a material consideration in the determination of the application.

The hedge to the east of the site was not found to be 'Important' under the Regulations but was judged to be worthy of retention and protection.

The report proposes the infill of existing gaps in the roadside hedge and a new hedge to the south of the plots to mitigate any habitat loss.

A condition would be attached to any grant of planning permission to secure the retention and protection of the existing hedgerows.

Planning Balance

The proposal is contrary to development plan policy NE.2 (Open Countryside) and therefore the statutory presumption is against the proposal unless material considerations indicate otherwise.

The most important material consideration in this case is the NPPF which 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.

The development plan is not "absent" or "silent". The relevant policies are not out of date because they are not time expired and they are consistent with the "framework" and the emerging local plan. Policy NE.2, whilst not principally a policy for the supply of housing, (its primary purpose is protection of intrinsic character and beauty of the countryside,) it is acknowledged has the effect of restricting the supply of housing. Consequently the application must be considered in the context of paragraph 14 of the Framework, which states:

"At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.....For decision taking means:

- *approving development proposals that accord with the development plan without delay; and 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."*

It is therefore necessary to consider whether the proposal constitutes "sustainable development" in order to establish whether it benefits from the presumption under paragraph 14. The cases of Davis and Dartford have established that "it would be contrary to the fundamental principles of the NPPF if the presumption in favour of development, in paragraph 14, applied equally to sustainable and non-sustainable development. To do so would make a

nonsense of Government policy on sustainable development". In order to do this, the decision maker must reach an overall conclusion, having evaluated the three aspects of sustainable development described by the framework (economic, social and environmental) as to whether the positive attributes of the development outweighed the negative in order to reach an eventual judgment on the sustainability of the development proposal. However, the Dartford case makes clear that this should be done simultaneously with the consideration of whether "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" as required by paragraph 14 itself and not on a sequential basis or as a form of preliminary assessment.

In this case, the development would provide market housing to meet an acknowledged shortfall. The proposal would also have some economic benefits in terms of jobs in construction, spending within the construction industry supply chain and spending by future residents in local shops.

Balanced against these benefits must be the negative effects of an incursion into Open Countryside. However, this incursion is considered to be small and given the site's location at the end of an established linear form of development and its proximity to services and facilities in nearby settlements, as well as the recent appeal decision directly south of the site, it is not considered that this is sufficient to outweigh the benefits in terms of housing land supply in the overall planning balance.

On the basis of the above, it is considered that the proposal is acceptable subject to the imposition of appropriate conditions.

RECOMMENDATION

APPROVE subject to the following conditions:

- 1. Submission of Reserved Matters**
- 2. Application for Approval of Reserved Matters**
- 3. Commencement of Development**
- 4. Plans**
- 5. Hours of Construction**
- 5. Submission / Approval and Implementation of Dust Suppression Scheme**
- 6. Submission / Approval and Implementation of Piling Method Statement**
- 7. Submission / Approval of Information regarding Contaminated Land**
- 8. Construction hours**
- 9. Submission of an updated badger survey**
- 10. Survey for nesting birds**
- 11. Incorporation of features for use by nesting birds**
- 12. Features for use by hedgehogs**
- 13. Visibility splays at access**
- 14. Package of arboricultural information in accordance with BS5837:2012**
- 15. Existing and proposed levels**
- 16. Retention and protection of existing hedgerows**
- 17. Replacement native species hedgerow**

In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation),

in consultation with the Chair (or in his 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 Head of Planning (Regulation) in consultation with the Chairman 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.

