

Application No: 15/4119C  
Location: Land east of, CHELLS HILL, CHURCH LAWTON  
Proposal: Construction of two new dwellings.  
Applicant: Marion Donovan  
Expiry Date: 04-Nov-2015

## **SUMMARY**

The application site lies entirely within the Open Countryside as determined by the Congleton Borough Local Plan First Review 2005.

Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, it constitutes a “departure” from the development plan and there is a presumption against the proposal.

The proposal remains contrary to Open Countryside policy regardless of the Council’s 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. This consideration is made on the sustainability of the development.

The proposal would bring positive planning benefits such as a minor boost to the local economy and a social benefit of providing housing. In addition the site is located in a relatively sustainable location with regards to its physical relationship to existing built form and with regards to its distance from local facilities. Impacts on neighbouring residential amenity would not be significant enough to warrant refusal and accordingly, the scheme is considered to be acceptable in the social and economic sense.

The impact that the proposals would have on the wider landscape will not be significant given that it would be situated in between an existing row of dwellings. Subject to conditions, it is not considered that the proposed development would create any significant environmental concerns and as such on balance, is considered to be environmentally sustainable.

As a result of the above reasons, it is considered that the proposal would represent sustainable development and is therefore recommended for approval.

## **RECOMMENDATIONS**

**APPROVE subject to conditions**

## **PROPOSAL**

This application seeks full planning permission for the construction of two new dwellings on land to the east of Chells Hill, adjoining the settlement of Lawton Heath End, Church Lawton.

## **SITE DESCRIPTION**

The application site is located on the eastern side of Chells Hill, directly in between existing residential properties (no.s 5 and 6 Chells Hill). The site measures approximately 0.14 ha in size. The site forms part of a larger field which runs behind the properties fronting Chells Hill. The site is within the Open Countryside but adjoins the South Cheshire Green Belt to the east as designated in the Congleton Borough Local Plan First Review (2005).

## **RELEVANT HISTORY**

30492/3 - CHANGE OF USE FROM AGRICULTURAL LAND TO NEW STABLES (2 NO.) AND GRAZING FOR HORSES FOR PERSONAL USE. – Approved - 30-Nov-1998

32528/1 - ERECTION OF TWO DWELLING HOUSES – Withdrawn 23-Nov-2000

## **NATIONAL & LOCAL POLICY**

### **National Policy**

The National Planning Policy Framework establishes a presumption in favour of sustainable development. Of particular relevance are paragraphs:

14, 17 - Presumption in favour of sustainable development, 47-50 - Wide choice of quality homes, 55 - Isolated dwellings in the countryside, 56-68 - Requiring good design, 69-78 - Promoting healthy communities and 217 - Implementation.

### **Development Plan**

The Development Plan for this area is the Congleton Borough Local Plan First Review, which allocates the site, under Policy PS8, as Open Countryside.

The relevant Saved Policies are:

PS8	Open Countryside
GR1	New Development
GR2	Design
GR4/5	Landscaping
GR9	Accessibility, servicing and provision of parking
GR15	Pedestrian Measures
GR17	Car parking
GR18	Traffic Generation
NR3	Habitats
H6	Residential Development in the Open countryside

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:

PG2 – Settlement Hierarchy  
PG5 - Open Countryside  
PG6 – Spatial Distribution of Development  
SC4 – Residential Mix  
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

#### **Other Material considerations:**

National Planning Policy Framework  
Interim Planning Statement Release of Housing Land  
Cheshire East Development Strategy  
Cheshire East SHLAA  
SHMA Update 2013

### **CONSULTATIONS**

#### **Head of Strategic Infrastructure (Highways)**

No objection subject to a condition the roadside hedgerow is kept to a height of no more than 1 metre.

#### **Environmental Protection**

No objection subject to informatives relating to land contamination and construction hours.

#### **Brine Compensation Board:**

No objection but comment that the site is within an area that has previously been affected by brine subsidence and therefore the applicant should be advised that any foundations will need to be strengthened.

## **Parish Council:**

No comments received

## **REPRESENTATIONS**

Two letters of representation have been received objecting to this application on the following grounds:

- Principle of the development contrary to Policy
- The existing development is dispersed and not a row of built up development
- Loss of open countryside / greenspace
- Overdevelopment of the site and loss of open aspect
- Out of keeping with the character of the area
- The land is not flat
- Loss of light
- Overlooking, loss of privacy and loss of view
- Poor drainage
- The site is within a brine compensation area
- The area is not predominantly residential it is rural
- There is no extra need for housing in the area
- Other schemes in the area have been refused
- Impact on Green Belt
- Soakaway in field to rear

## **APPRAISAL**

### **Principle of Development**

The site lies in the open countryside as designated in the Congleton Borough Local Plan First Review, where policies H6 and PS8 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.

As a result, the proposal for a new dwelling 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 the development represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

### **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.

### **Open Countryside Policy**

In the absence of a 5-year housing land supply we cannot rely on countryside protection policies to defend settlement boundaries and justify the refusal of development simply because it is outside of a settlement, but these policies can be used to help assess the impact of proposed development upon the countryside. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply. Policy PS8, seeks to protect the intrinsic character and beauty of the countryside.

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. In order to assess the impact upon the Open Countryside, a key consideration is the impact the development would have upon the landscape which is considered and whether the development of the site would amount to sustainable development and thus amount to material considerations that would outweigh the conflict with local plan policy.

In this case it should also be noted that the development would be comply with emerging Policy PG5 of the emerging local plan allows for exceptions *‘where there is the opportunity for the infilling of a small gap with one or two dwellings in an otherwise built up frontage’*.

### **Sustainability**

The NPPF determines that sustainable development comprises of three dimensions:- economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

**an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

**an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

**a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;

These roles should not be undertaken in isolation, because they are mutually dependent.

## **ENVIRONMENTAL ROLE**

### **Landscape Impact**

The proposed dwellings would be sited in-between the existing built up frontage of Chells Hill and accordingly, would serve to bridge the gap between existing properties. It is also considered that this development would constitute in-fill development in accordance with Policy PG5 and the proposal would be viewed within the context of a cluster of existing dwellings. The siting of the proposed dwellings would round off the existing frontage and would not appear intrusive. As such, the landscape impact would not be significant and the impact on openness would be limited.

### **Design Standards**

The dwellings would be sited in between existing buildings and would of a scale and height similar to adjoining properties. Whilst the proposed dwellings would be slightly taller and deeper, the difference in height would not be significant and generous spacing between the side elevations would ease the transition. The 2 units would be slightly different in appearance, with one benefiting from a gable feature on the front elevation and the other without. This would help to provide some variation along the frontage.

The general style of the proposed dwellings would be in keeping with the vernacular being brick built and of traditional appearance. It is considered that the development would be of an acceptable design which would adhere with Policies GR1 and GR2 of the Local Plan and Policies SD2 and SE1 of the emerging Cheshire East Local Plan Strategy – Submission Version.

### **Highways**

Originally, the proposed dwellings were to continue the front building line of the adjoining properties. However, following concerns expressed by the Head of Strategic Infrastructure (Highways), the dwellings have been set deeper into the site to allow room at the front of each dwelling so that vehicles can enter and leave the site in a forward gear. Each unit would benefit from its own access off Chells Hill and provided that the hedge at front is kept to a height not exceeding 1 metre, the visibility for each has been confirmed as being acceptable. Sufficient off street parking would be provided for each unit. As such, the proposal is acceptable in terms of highway safety and parking provision.

## **SOCIAL ROLE**

The proposal would provide much needed housing (albeit 2 units) near to an existing settlement of dwellings. It is considered that this offers a social benefit in considering the sustainability of the application.

## **Residential Amenity**

Policy GR6 of the Local Plan advises that development shall only be permitted when the proposal would not have a detrimental impact upon neighbouring amenity in terms of overlooking, overshadowing, visual intrusion or environmental disturbance.

The closest residential property to the site would be to the south, no. 5 the Cottages, Chells Hill. The nearest plot would be sited part way alongside this neighbouring property's side elevation which contains a number of side facing windows. At ground floor level, there is a window serving a living room area mid way along the original side elevation. At first floor level, there are 2 side facing windows, one serving a bedroom and the second serving a bathroom. The bedroom window is situated directly above the ground floor living room window and the bathroom window is positioned towards the rear of the side elevation.

The occupant of no 5 the Cottages is concerned that the proposal would cause loss of light to the ground floor window. However, the nearest proposed dwelling would achieve a separation of c7 metres with this window and following amendments, would be sited deeper into the site. As such, it would be offset slightly and this would reduce its dominance from both the living room window and upper floor bedroom window. Coupled with this, the said windows face in the direction of north and accordingly, the proposal would not result in a significant loss of light to justify a refusal of planning permission. The bathroom window is not a principal window and the bathroom is also served by a window at the rear and as such, would not be materially harmed. Additionally, the garage window that the neighbour is concerned about is not a principal window.

In terms of overlooking, the objector is also concerned about overlooking. Whilst there is a window proposed in the side facing elevation of the nearest dwelling facing no 5 The Cottages, this would serve a bathroom and as such could be obscured to prevent any direct overlooking. There would be no other upper floor side windows in this elevation and a ground floor utility door would be screened by a garage and boundary treatment.

Turning to the north of the site, the nearest property (no. 6 The Cottages) also benefits from some side facing windows. It benefits from a doorway at ground floor level, a hall / landing window at first floor and a bedroom window at second floor level. The nearest plot facing this neighbour would achieve a separation of over 12 metres with these neighbouring windows. This separation would be

sufficient to ensure that the proposal does not materially harm neighbouring amenity in terms of loss of light and over dominance. The proposed detached double garage would be single storey, modest in terms of height and would also not impact detrimentally on this neighbour's amenity.

With respect to overlooking, any proposed upper floor side facing windows could be obscured by condition. In terms of comments regarding loss of views, there is not 'right to a view' over third party land. This would not sustain a refusal of planning permission. The amenity afforded to the occupants of the proposed dwellings would also be sufficient.

## **ECONOMIC ROLE**

It is accepted that the construction of a housing development of this size would bring the usual economic benefit to the closest shops in the area for the duration of the construction, and would potentially provide local employment opportunities in construction and the wider economic benefits to the construction industry supply chain. It is considered that the proposed development would be economically sustainable.

## **Planning Balance**

The application site lies entirely within the Open Countryside as determined by the Congleton Borough Local Plan First Review 2005.

Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, it constitutes a "departure" from the development plan and there is a presumption against the proposal.

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As a result of the above reasons, it is considered that the proposal would represent sustainable development and is therefore recommended for approval.

## **RECOMMENDATION**

**APPROVE** subject to the following conditions:

- 1. Standard Time Limit (3 Years)**
- 2. Accordance with approved and amended plans**
- 3. Details of external materials to be submitted**
- 4. Details of boundary treatments to be submitted**
- 5. Details of drainage to be submitted**
- 6. Landscaping scheme to be submitted**
- 7. Implementation of approved landscaping scheme**
- 8. Accesses to be constructed in accordance with approved plans prior to first occupation of the unit to which it relates**
- 9. Survey for nesting birds if development s to be carried out within the bird breeding season**
- 10. Removal of permitted development right (Classes A-E) extensions and outbuildings**
- 11. Upper floor side facing windows to be obscurely glazed**
- 12. Removal of permitted development rights for further openings with upper floor side facing elevations**

**In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning (Regulation) has delegated authority to do so in consultation with the Chairman of the Southern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.**

