

Application No: 16/2732N

Location: Greenbank Cottage, Welshmans Lane, HENHULL, Nantwich, Cheshire, CW5 6AB

Proposal: Plot substitution [Change of house type from the previous application 13/4656N] for the creation of 19 dwellings

Applicant: Mr Sam Leuty-Milner, Tesni Properties Limited

Expiry Date: 21-Sep-2016

SUMMARY:

The site is designated as being within Open Countryside in the adopted local plan, however permission for the 19 dwellings was granted on appeal in June 2015. The principle of residential development on the site has therefore been established.

The proposal only seeks permission for changes to the approved house types, therefore the relevant issues are design and amenity.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon design and amenity.

RECOMMENDATION:

Approve subject to conditions subject to the completion of a Section 106 Agreement to secure a contribution to primary education and affordable housing provision

PROPOSAL

This application seeks full planning permission for the creation of 19 dwellings of different house types to those approved under application 13/4656N.

The dwellings would comprise 4, one bedroom flats, 1, three bedroom house, 9, four bedroom houses and 5, five bedroom houses. A single access would be taken from Welshman's Lane, ending in a turning head at the end of the site.

SITE DESCRIPTION

The application site is an area of land to the east of Welshman's Lane, Nantwich. There was previously a detached cottage occupying the most southerly part of the site, however this has now been demolished. It is a relatively flat site with allotments to the north and residential dwellings to the south.

To the north is the Kingsley Fields site (13/2471N), where an outline application for up to 1,100 dwellings and other facilities has been approved. There is however land between the application site and the Kingsley Fields site.

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

RELEVANT HISTORY

13/4656N Appeal allowed for demolition of Greenbank Cottage and the erection of 19 dwellings – 22nd June 2015

NATIONAL & LOCAL POLICY

National Policy:

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

Development Plan:

Borough of Crewe and Nantwich Replacement Local Plan 2011

The relevant Saved Policies 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

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

Cheshire East Local Plan Strategy Proposed Changes (Consultation Draft) March 2016 (CELP)

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

SD 1 Sustainable Development in Cheshire East
SD 2 Sustainable Development Principles
SE 1 Design
SE 2 Efficient Use of Land
SE 3 Biodiversity and Geodiversity
SE 4 The Landscape
SE 5 Trees, Hedgerows and Woodland
SE 9 Energy Efficient Development

SE 12 Pollution, Land Contamination and Land Instability
SC 4 Residential Mix
SC 5 Affordable Homes
PG 1 Overall Development Strategy
PG 2 Settlement Hierarchy
PG5 Open Countryside
PG6 Spatial Distribution of Development
EG1 Economic Prosperity

CONSULTATIONS:

Highways:

No objection.

Environmental Protection:

Recommend informatives relating to noise and contaminated land.

Nantwich Town Council:

Object to the proposal on the grounds of density, scale, layout and design.

Henhull Parish Council:

Object to the proposal on the grounds of increased density.

REPRESENTATIONS:

Neighbour notification letters were sent to neighbouring properties and a site notice posted.

At the time of report writing representations from 3 properties have been received which can be viewed in full on the Council website. The objections raise the following concerns:

- Incorrect plans
- Trees
- Loss of habitat
- Amenity
- Car parking
- Impact on wildlife
- Privacy and overlooking
- Flood risk
- Highway safety

APPRAISAL

The key issues to be considered in the determination of this application are set out below.

Principle of Development

The principle of allowing residential development on this site was established when the appeal on application 13/4656N was allowed.

The issue in question is whether this proposal represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the presumption in favour of sustainable development.

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”

There are, however, three dimensions to sustainable development: 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; and

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

ENVIRONMENTAL SUSTAINABILITY

Landscape and Trees

Thirty one individual trees and fourteen groups of trees were surveyed and identified within the impact assessment. In terms of BS5837:2012 the majority of the trees have been categorised as moderate value (Cat B) however, in some instances these should be downgraded to C especially those mature trees located on the northern allotment boundary which have been poorly managed previously. All three mature trees (T1, 4, and 6) present significant signs of reduced vigour and vitality. The trees have deteriorated since the last inspection with Inonotus fungal brackets evident, bringing into question the structural

integrity of all three trees given the present hazard potential associated with the adjacent allotments and the proposed development and domestic garden curtilages.

The application identifies the loss of three trees (T9, 11 & 12) from the south east corner of the site. All three appear to have established as multi stemmed coppiced re-growth which may have been predicated as a result of historic electricity line management. Whilst access to examine the trees in detail is difficult given the on site constraints the generic tendency of the respective species to form included bark unions, and associated long term potential structural weakness make them un-suitable for formal protection. Evidence of decay and an associated fungal bracket was noted on the stem of T12. The close proximity of an existing H electricity pole and associated equipment will also necessitate the ongoing management and significant cutting back of T9.

None of the remaining trees identified for removal are considered worthy of formal protection.

Ecology

One tree, T1 has been identified as having high bat roost potential. This tree has two bat boxes attached which were installed as mitigation for the loss of a bat roost associated with the recently demolished cottage on this site. This tree is stated as being retained as part of the development proposals. Due to the poor condition of this tree it may be that future occupiers wish to undertake works to make this safe at some time in the future, it is likely that this could be achieved without compromising the tree's bat roost potential.

It is therefore recommended that a condition be attached ensuring that no works are carried out to this tree without consent.

Three other trees have been identified as having low bat roost potential. Two of these trees are proposed for removal. It is considered that the removal of these trees is unlikely to affect roosting bats. The submitted report however recommends, in accordance with best practise, that these trees be felled over the winter period.

Evidence of Badger activity was recorded on site including some potential setts which appeared disused. Based on the current level of badger activity, it is considered that Badgers are unlikely to be significantly affected by the proposals. However, as the status of the setts on site could change in a short timescale it is recommended that if planning consent is granted, a condition should be attached which requires an updated Badger survey to be submitted prior to the commencement of development.

Hedgerows are Biodiversity Action Plan priority habitat and a material consideration. It is likely that the proposals will result in the loss of hedgerows from the Welshman's Lane frontage. It is recommended that if planning consent is granted suitable replacement native hedgerow planting is secured as part of any detailed landscaping scheme for the site. This would also ensure that the loss of bat foraging and commuting habitat is minimised.

Design & 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 proposal is for a development of 19 dwellings set out in the form of a cul-de-sac, very similar to that approved at appeal. The Inspector at the appeal did say that it would create a relatively suburban layout, however he considered that suitable planting and the retention of the remaining boundary hedges would soften this and as such he considered it to be acceptable.

The proposed dwellings are of a traditional design with gable features and pitched roofs. The materials to be used are brickwork to the lower floors with timber boarding above which is considered to be acceptable in this context.

When comparing the approved development with the one proposed in this application, it should be noted that the proposed layout is very similar to that approved and the houses are two-storey dwellings with a mix of one, three, four and five bedroom dwellings, as was the case with the previous application, this is shown in the presentation. As such a reason for refusal on these grounds could not be sustained.

The proposal is therefore considered to be in compliance with Policy BE.2 of the adopted local plan.

Highways

From a highways perspective, the access and layout largely reflect the previous application 13/4656N for which there was no highways objection.

Footway access should be conditioned as was the case of the previous application.

No objection is raised by the Head of Strategic Infrastructure subject to this condition and informatives relating to the adoption of the road and the footway.

The proposal is therefore considered to be acceptable in highway safety terms and in accordance with Policy BE.3 of the adopted local plan.

Air Quality

Modern Ultra Low Emission Vehicle Technology (such as all electric vehicles) are expected to increase in use over the coming years (the Government expects most new vehicles in the UK will be ultra low emission). As such, it is considered appropriate to create infrastructure to allow home charging of electric vehicles in new, modern properties. As such a condition should be imposed requiring electric vehicle charging points for each new dwelling.

Drainage

There were no technical objections on drainage grounds to the approved scheme and the Inspector considered it necessary to impose a condition requiring drainage details to be submitted, prior to commencement of development. This condition should be imposed if permission is granted for the proposed development.

ECONOMIC SUSTAINABILITY

The Framework includes a strong presumption in favour of economic growth.

Paragraph 19 states that:

‘The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth’

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to the local area, including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

SOCIAL SUSTAINABILITY

The site is close proximity to Nantwich town centre with all the facilities and services that are available there.

Affordable Housing

The affordable housing provision of 5 dwellings was secured by Section 106 Agreement, when the previous application was granted on appeal. This should be carried forward into the new legal agreement.

Residential Amenity

The proposal is for 19 dwellings on this site. The required separation distances would be achieved between the existing and proposed dwellings, meaning that there would be no significant adverse impact on privacy or light levels.

As originally submitted, there were balconies proposed on some of the properties that would have overlooked neighbouring gardens. These have now been removed.

Adequate private residential amenity space could be provided within the domestic curtilage of the properties to provide recreational space and bin storage.

Should the application be approved a condition should be imposed relating to piling operations.

Health

There are at least 10 medical centres within 0.5 to 5 miles of the site, all of which are accepting patients. As such a contribution to health care could not be justified.

Education

On the previous application requests were made for contributions to primary and secondary education. As part of the appeal the Inspector concluded that a contribution to primary education could be justified, but not the contribution to secondary education.

Response to Objections

The representations of the members of the public have been given careful consideration in the assessment of this application and the issues raised are addressed within the individual sections of the report.

During the application process it was pointed out that the site edged red included land that was not in the ownership of the applicant. Revised plans were submitted to address this issue.

S106 Contributions:

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, contributions to primary education are directly related to the development and fairly and reasonably related in scale and kind to the development. The provision of affordable housing is also necessary. These would help to make the development sustainable.

Conclusion – The Planning Balance

The site is designated as being within Open Countryside in the adopted local plan, however permission for the 19 dwellings was granted on appeal in June 2015. The principle of residential development on the site has therefore been established.

The proposal only seeks permission for changes to the approved house types, therefore the relevant issues are design and amenity.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon design and amenity.

RECOMMENDATION

Approve subject to the conditions listed below and the completion of a s106 Agreement for a contribution of £32,536.00 to primary and the provision of 30% affordable housing.

- 1. Commencement of development**
- 2. Approved plans**
- 3. Details of materials to be submitted**

4. Retention of trees identified for retention within the site
5. Submission of tree protection measures
6. Restriction on hours of piling to 9am to 5.30pm Monday to Friday, 9am to 1pm Saturday and no working on Sundays or public holidays.
7. Provision of one electric vehicle charging point for each dwelling
8. Submission of details of foul and surface water drainage
9. Submission of details of hard and soft landscaping
10. Implementation of landscaping scheme
11. Protection for breeding birds
12. Incorporation of features for breeding birds
13. Submission of details of external lighting
14. No works to be undertaken to Tree T1, located within the garden of Plot 1 without written agreement of the LPA
15. Updated Badger survey to be submitted prior to commencement of development

Informatives:

- I. The applicant is advised that they have a duty to adhere to the regulations of Part 2A of the Environmental Protection Act 1990, the National Planning Policy Framework 2012 and the current Building Control Regulations with regards to contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales and approved by the LPA in writing. Furthermore, any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping should be tested for contamination and suitability for use prior to importation to site. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.
- II. The applicant will be required to enter into a Section 38 Agreement regarding the construction and future adoption of the internal road layout.
- III. The applicant will be required to enter into section 278 agreement for the proposed footway works.

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.

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 following Heads of Terms for a S106 Agreement:

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision**
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**

2. Primary School Education Contribution of £32,536.00

