

**Application No:** 11/2370N

**Location:** 44 MARSH LANE, NANTWICH, CHESHIRE, CW5 5LH

**Proposal:** New Detached House, Garage, Driveway

**Applicant:** E. Leetham N. Cleave

**Expiry Date:** 17-Aug-2011

**SUMMARY RECOMMENDATION:**

Approve (with conditions) subject to receipt of amended plans  
or  
Refuse

**MAIN ISSUES:**

- Principle of development
- Impact on the character and appearance of the site/surroundings
- Impact of the development on residential amenity
- Drainage
- Impact of the development on trees
- Nature Conservation
- Impact of the development on highway safety

**1. REASON FOR REFERRAL**

This application has been called in to Southern Planning Committee by Councillor A Moran for the following reasons:

- *Over development of the site, cramming;*
- *Highways impact on Marsh Lane;*
- *Neighbours concerns.*

**2. DESCRIPTION OF SITE AND CONTEXT**

The application site consists of a large two storey detached dwelling with a substantial surrounding garden. The site is located in the Nantwich settlement boundary to the south west of the town centre. The site is bounded to the north and east by residential properties and an area of open space and naturally vegetated land lies to the south west. The Shropshire Union canal runs in close proximity to the rear of the site. The area is predominantly residential in character although there is no predominant uniform house type.

### **3. DETAILS OF PROPOSAL**

This application seeks permission for a new detached house in the rear garden of 44 Marsh Lane. Access would be via the existing access for 44 Marsh Lane. The house would be 1 and half storeys 7.2 metres high to the ridge, designed in an L-shape. This application is a resubmission of 10/4632N. That application was withdrawn due to concerns relating to the size and scale of the proposal. This application differs in that the overall height has been reduced 600mm and the eaves have been reduced by 1 metre. The design and shape of the dwelling have also been amended.

### **4. RELEVANT HISTORY**

- 10/4632N: New House and Alteration to existing driveway, Withdrawn 25<sup>th</sup> January 2011.
- 7/17033: Change of use to garden, displacement of topsoil to alter ground levels from new vehicular access and two storey extension, approved 3<sup>rd</sup> August 1989.

### **5. POLICIES**

#### **North West of England Regional Spatial Strategy**

- DP1 Spatial Principles
- DP2 Promote Sustainable Communities
- DP4 Making the Best Use of Existing Resources and Infrastructure
- DP7 Promote Environmental Quality
- RDF1 Spatial Priorities
- L2 Understanding Housing Markets
- L4 Regional Housing Provision

#### **Local Plan Policy**

- BE.1 (Amenity)
- BE.2 (Design Standards)
- BE.3 (Access and Parking)
- BE.4 (Drainage, Utilities and Resources)
- RES.2 (Unallocated Housing Sites)
- NE.5 (Nature Conservation and Habitats)
- NE.9 (Protected Species)

#### **Other Material Considerations**

- PPS1: Delivering Sustainable Development
- Planning Policy Statement: Planning and Climate Change Supplement to PPS1
- PPS3: Housing
- PPS9: Biodiversity and Geological Conservation
- PPS23: Planning and Pollution Control
- Crewe and Nantwich Borough Council Supplementary Planning Document Development on Backland and Gardens

## 6. CONSULTATIONS (External to Planning)

**United Utilities:** United Utilities originally expressed no objections. Subsequently they amended their comments objecting on the basis of increase wastewater run-off exacerbating flooding within the immediate area. However after discussions with the applicant's agent they have submitted further amended comments as follows:

*United Utilities would be happy to remove the "objection" previously imposed on the proviso that, the applicant can provide complete assurance that no surface water run-off generated from the development what so ever will be discharged in to the public sewerage system.*

**Strategic Highways and Transportation Manager:** No highways objections.

**Environmental Health:** Do not object subject to the following comments:

### Contaminated Land Comments:

*The application is for a new residential property which is a sensitive end use and could be affected by any contamination present.*

*As such, and in accordance with PPS23, this section recommends that the following conditions, reasons and notes be attached should planning permission be granted:*

### CONDITION

Prior to the development commencing:

(a) A contaminated land Phase I report to assess the actual/potential contamination risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority (LPA).

(b) Should the Phase 1 report recommend that a Phase II investigation is required, a Phase II investigation shall be carried out and the results submitted to, and approved in writing by, the LPA.

(b) Should the Phase II investigations indicate that remediation is necessary, a Remediation Statement shall be submitted to, and approved in writing, by the LPA. The remedial scheme in the approved Remediation Statement shall then be carried out.

(c) Should remediation be required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to, and approved in writing by, the LPA prior to the first use or occupation of any part of the development hereby approved.

### REASON

To ensure the development is suitable for its end use and the wider environment and does not create undue risks to site users or neighbours during the course of the development and having regard to policy BE.6 of the Cheshire East Local Plan.

### REASON

The actions are considered necessary as a result of a proposed change of use to a more sensitive land use.

## NOTE

The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the Town and Country Planning Act 1990 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. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.

This section has used all reasonable endeavours to recommend the most appropriate measures regarding potential contamination risks. However, this recommendation should not be taken to imply that the land is safe or otherwise suitable for this or any other development.

### Environmental Health Advisory Comments:

The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 09:00 to 14:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays. To protect the amenities of nearby residents and the occupiers of nearby property.

**British Waterways:** No objection. If the Council is minded to grant permission, request the following informative:

*“The applicant/developer is advised to contact third party works engineer, Alan Daines (0113 2816800) in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways’ “Code of Practice for Works affecting British Waterways”.*

**Public Right of Way Team:** The development does not appear to affect a public right of way.

## 7. VIEWS OF THE TOWN COUNCIL:

The Town Council object to yet more garden development in Nantwich.

## 8. OTHER REPRESENTATIONS:

Letters of objection have been received from the occupiers of 40, 42 and 73 Marsh Lane, Nantwich. The objections can be summarised as:

- Marsh Lane has been subject to very bad sewer flooding during heavy rain. The drain is both surface water and foul and consequently after each flood event United Utilities have attended to clean and disinfect the carriage way.
- The additional dwelling would increase in water run off and reduce permeable surfaces making existing flooding worse.
- The applicant does not refer to any wildlife that could be affected by the development.
- The plot cannot support 2 dwellings.

- The OS map submitted suggests the property is bigger than it is as shown on the Land Registry Plan.
- The proposal would result in loss of light, loss of privacy and increase in noise at 42 Marsh Lane.
- Mains water pressure could be affected.
- The proposal would transform the local environment.
- The government stated in June that planning rules will be changed to prevent unwanted garden grabbing by taking gardens out of definition of brownfield.

## **9. APPLICANT'S SUPPORTING INFORMATION:**

Design and Access Statement submitted, the salient points being:

- The existing dwelling is positioned within a substantial plot therefore there is opportunity for an additional dwelling without causing loss of amenity.
- There would be ample private amenity space around the dwelling.
- The scheme allows for retention of existing trees on the front and rear boundaries.
- Existing hedge/trees/shrubs on the side boundaries would be retained.
- The site is well located with access to Nantwich railway station less than a mile away and the town centre is less than a mile away.
- There is a bus stop on Marsh Lane with regular services.
- There would be a minimum of 2 no. vehicular parking spaces per dwelling, there is adequate turning provision.
- The dwelling would be subservient to the larger 44 Marsh Lane.
- Habitable room windows have been carefully considered to ensure privacy.
- The rare times of flooding is caused by a defect to the sewer and should be repaired by United Utilities, it is out of the control of the applicant.
- The property will have full rainwater and sink water harvesting so additional load on the sewer would be very minimal.

Arboricultural Impact Assessment submitted, the salient points being:

- There are significant established trees on site providing screening, and amenity.
- The most significant trees are along the Marsh Lane boundary and the rear boundary.
- Proximity of the development to trees along the rear boundary should be considered carefully.
- Root protection areas to trees 21, 22, 25 and 26 should be left untouched.
- A 20% offset of the root protection areas would be possible.
- Most trees do not present an issue with shading a new development as shading is to the north west which would be mostly off site.

## **10. OFFICER APPRAISAL**

### **Principle of Development**

The development would be on garden land and the Government has stated in the amended PPS3 that this is no longer classified as brownfield land. However the development should still be determined against the criteria set out in the adopted Borough of Crewe and Nantwich Replacement Local Plan. The site is within the settlement boundary where new housing is permitted subject to compliance with policies BE.1-BE.5.

Some form of development on the site is therefore considered to be acceptable in principle.

### **Character and Appearance of the Site and Surroundings**

The proposed dwelling would be one and a half storeys, lower in height than 44 Marsh Lane. It would therefore appear subservient to what is a large two storey dwelling. The design and appearance of the dwelling would not be inappropriate to the site and would create a legible dwelling fronting on to Marsh Lane, although not readily visible being to the rear of 44 Marsh Lane. However the size and scale of the dwelling is on the large side in what is a constrained site which is exacerbated by the trees around the site which are considered important features, providing natural screening of the proposed development. It is considered that a dwelling of the size proposed could not be accommodated within the site comfortably. However, amended plans have been requested seeking a reduction in size of the rear projection to bring the development out of the root protection zone. This would also help to balance the appearance of the dwelling and make it more appropriate in size to the site.

### **Amenity**

The proposed dwelling, being sited within the existing garden of 44 Marsh Lane would be positioned in close proximity to that dwelling. The front elevation of the proposed dwelling would be approximately 19 metres from the rear elevation of 44 Marsh Lane according to the location plan. It is noted that the block plan indicates that the distance is 21 metres. The *SPD Development on Backland and gardens* states that there should ideally be a distance of 21 metres between principal elevations. Whilst this proposal falls short of that provision when read on the location plan, the proposed dwelling would only contain one principal window (serving the lounge) in that elevation and that would be positioned at ground floor level. There would be no first floor windows. The main concern would therefore be overlooking of this window from the first floor windows in the rear elevation of 44 Marsh Lane. However given the shortfall in meeting the requirement is not significant, it is not considered this alone could justify a refusal on amenity grounds.

The size, scale and position of the proposed dwelling is such that it would not result in significant harm to amenities at 44 Marsh Lane in terms of loss of light or visual intrusion. Whilst it would inevitably be visible from 44 Marsh Lane the proposed dwellings proximity and relationship with 44 Marsh Lane is such that it would not prejudice amenity.

Objections have been received from the occupiers of 42 Marsh Lane regarding loss of light, loss of privacy and noise disturbance. The dwelling would be approximately 13 metres from the boundary with 42 Marsh Lane at its nearest point. It would be approximately 20 metres away from the dwelling at 42 Marsh Lane at its nearest point. Given the layout of the dwelling in relation to 42 Marsh Lane and the distances state above it is not considered there would be significant harm to residential amenity at that property in terms of loss of light or visual intrusion. With regard to potential loss of privacy, whilst first floor dormer windows would be installed they would be on the inside of the 'L' and would not directly overlook any windows at 42 Marsh Lane. There would potentially be some opportunity for overlooking the garden area however any direct views would be of the furthest extent of the garden which is relatively long. The window in the side elevation to bedroom 3 would be in close proximity to the boundary and could result in the loss of privacy to the private amenity space at the rear of 42 Marsh

Lane. A condition should therefore be attached to any approval requiring this to be obscure glazed.

There is significant and tree and vegetation screening along the rear boundary which would screen the development from properties on Cartlake Close.

### **Drainage**

Neighbours have drawn attention to past incidents of flooding in the immediate locality due to heavy rain events. The objections raised relate to the loss of permeable surfaces and increase in run-off as a result of the development, which would exacerbate the existing flooding problem. The application states in the Design and Access Statement that rainwater and sinkwater harvesting would be utilised. United Utilities have expressed the view that provided surface water run-off from the development does not discharge into the public sewer, it would have no objections. They have not raised any objections with foul sewage connecting to the public sewer.

Due to the expressed intentions of the applicant to provide sustainable drainage solutions for surface water run-off it is considered that provided a condition is imposed on any approval for full details of surface water drainage systems, the development would not result in a significant increase in run-off which could overload the existing system.

### **Trees**

There are a number of mature trees on the site both on the boundary and within the site itself. The applicant has provided a tree survey and Arboricultural Impact Assessment. It is accepted trees 18, 19 and 20 are Category C graded trees which are of low quality and value. The loss of these trees is therefore accepted. The most important trees on the site are the group that form the rear boundary. These trees provide important screening from properties to the north and wider views. They therefore help reduce the overall impact of the development within the landscape. However the proposed development is positioned such that it would impinge on the root protection zone of a number of important and high quality trees. Whilst the submitted Arboricultural Impact Assessment states a 20% offset would be acceptable this is not accepted. Any offset in development encroaching into root protection zones is normally where isolated trees are present. These trees form a dense group and therefore development should be outside the root protection zone. Amended plans have been requested which reduce the rear projection so the dwelling does not encroach on the root protection zone, however at the time of writing the report they have not been received.

With regards to shading from the trees the rear elevation would be in close proximity to the retained trees. However the windows in that elevation would either not serve habitable rooms or would be secondary to other windows.

### **Nature Conservation**

The site has a number of mature trees and shrubs/bushes to the rear of the site. The submitted details show that some vegetation and trees would be removed to allow for the development (tree matters are discussed in more detail above). Therefore a condition pertaining to protection of breeding birds is necessary to ensure they are not adversely affected. It is not considered a designated wildlife site or legally protected or biodiversity target species would be adversely impacted by the proposed development as conditioned.

## **Highways**

The proposal is for the existing access to 44 Marsh Lane to be used for the new dwelling. Traffic calming measures are in place on Marsh Lane and it is restricted to 30mph. The increase in traffic from a single dwelling would not be significant. The proposals provide sufficient room for off street parking both at the application dwelling and 44 Marsh Lane. Additionally the Strategic Highways and Transportation Manager has not raised any objections to the scheme. The existing access is sufficient to serve two dwellings. The proposed development is therefore considered acceptable in terms of its impact of highway safety.

## **Other Matters**

An objection has been received disputing the site boundaries shown on the submitted plans, particularly the southern boundary line. However at the time of the site visit it appeared the boundaries were correct and although

## **11. CONCLUSIONS**

The principle of the development is acceptable however the current design and layout raises concerns and as presently submitted it is considered the application should be refused. The development would have an adverse impact on trees at the rear of the site which provide important natural screening of the development from long views and properties to the north. The size of the dwelling is also inappropriate for the site which is constrained. Amended plans have been requested however at the time of writing the report the plans had not been received and confirmation is awaited on the intention of the applicant. A split recommendation is therefore made depending on receipt of amended plans. An update will be provided before the committee to confirm the recommendation.

## **12. RECOMMENDATIONS**

**APPROVE subject to the receipt of amended plans showing:-**

- The proposed dwelling in relation to the crown spread and root protection zones as shown on submitted tree constraints plan.
- A reduction in the rear projection to bring the development out of the root protection zones for trees 21, 22, 24, and 26 and sufficiently sited away from the crown spread of those trees.

**And subject to the following conditions:-**

1. Standard Time.
2. Prior to commencement of development details of Materials to be submitted and approved.
3. Prior to commencement of development details of the surface water drainage systems to be submitted and approved.
4. Prior to commencement of development a scheme for protection of trees during construction to be submitted and approved
5. Prior to commencement of development a landscaping scheme including all trees to be retained to be submitted and approved.



6. Landscaping implementation
7. Prior to commencement of development details of boundary treatment to be submitted and approved.
8. Prior to commencement of development details of surfacing materials to be submitted and approved.
9. First floor window in side elevation serving bedroom 3 to be obscure glazed.
10. Approved plans

**If satisfactory amended plans are not received REFUSE for the following reasons:-**

1. The proposed development, by virtue of its siting would have an adverse impact on a group of important and high value trees along the rear boundary of the site which would be to the detriment of the character and appearance, and visual amenity of the area and a wildlife habitat. This is contrary to Policy NE.5 (Nature Conservation and Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.
2. The proposed dwelling would be of a size and scale which is inappropriate to the site resulting in a cramped form of development to the detriment of the character and appearance of the locality and would fail to achieve a high standard of design. This is contrary to Policy BE.2 (Design Standards) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and advice contained in PPS1: Delivering Sustainable Development.

