

Application No: 11/4295N

Location: Weston Hall, MAIN ROAD, WESTON, CW2 5ND

Proposal: Extension to Time Limit of Planning Permission P08/1274 for One Dwelling

Applicant: Mr R Galloway

Expiry Date: 15-Jan-2012

**SUMMARY RECOMMENDATION:** Approve subject to conditions

**MAIN ISSUES:**

- Site History;
- Scope of this application;
- Material Changes in Circumstances/Policy since the Previous Application; and
- Ecology

**REFERRAL**

This application is referred to the Committee as the original proposal was a departure from the Crewe and Nantwich Replacement Local Plan 2011.

**DESCRIPTION OF SITE AND CONTEXT**

The site is located within the open countryside and was formerly occupied by Weston Hall a Grade II\* Listed Building which was destroyed by fire on 1<sup>st</sup> September 2005. All materials which were part of Weston Hall have been removed from the site and it remains vacant. The site is accessed via a drive of approximately 125m in length and is not visible from the road due to dense vegetation growth to the front of the site. A large pond is located to the front of the site and the proposed dwelling would be sited adjacent to a residential property known as 'The Cottage, Weston Hall' which is accessed via a separate driveway.

**DETAILS OF PROPOSAL**

An application for an extension to time has been submitted in relation to the approved planning consent number P08/1274. That planning consent was a full planning application for one dwelling. The proposed dwelling would be two and half storeys in height and would have 4no. bedrooms and a games room in the attic with a detached garage to the rear which would house 3 cars.

**RELEVANT HISTORY**

P08/1274 – One Dwelling – Approved – 22<sup>nd</sup> April 2009

## **POLICIES**

### **Local Plan Policy**

RES.5 (Housing in the Open Countryside)  
BE.1 (Amenity);  
BE.2 (Design Standards);  
BE.3 (Access and Parking);  
BE.4 (Drainage, Utilities and Resources);  
BE.5 (Infrastructure);  
NE.2 (Open Countryside)  
NE.5 (Nature Conservation and Habitats)  
NE.9 (Protected Species)

### **National Policy**

PPS.1 (Delivering Sustainable Development).  
PPS.3 (Housing)  
PPS7 (Sustainable Development in Rural Areas)  
PPS9 (Biodiversity and Geological Conservation)  
PPG13 (Transport)

Greater Flexibility in Planning Permissions  
Ministerial Planning Statement Planning for Growth

## **CONSIDERATIONS (External to Planning)**

**Cheshire Wildlife Trust:** No objections

### **Natural England:**

This application is in close proximity to Black Firs and Cranberry Bog Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal, Natural England raises no objection to the proposal being carried out according to the terms and conditions of the application and submitted plans on account of the impact on designated sites.

If the LPA is aware of, or representations from other parties highlight the possible presence of a protected or Biodiversity Action Plan (BAP) species on the site, the authority should request survey information from the applicant before determining the application.

**Ecologist:** No objections subject to conditions relating to a survey of the site prior to any work commencing and a scheme to incorporate features suitable for breeding birds.

## **VIEWS OF THE PARISH / TOWN COUNCIL**

No comments received at the time of writing this report

## **OTHER REPRESENTATIONS**

No representations received

## **APPLICANT'S SUPPORTING INFORMATION**

No supporting information included with the application

## **OFFICER APPRAISAL**

### **Site History**

The application site is located within the open countryside. New dwellings in the open countryside are not normally acceptable unless for agricultural purposes, as a replacement dwelling or to infill a small gap within an otherwise built up frontage. In this instance, there was a long established and listed property on the site; because this was destroyed by a fire the 'replacement dwelling' is considered a departure from Policy. However, it is a material consideration that a dwelling occupied the site and the harm of the proposed dwelling which would occur to the character and appearance of the Open Countryside would be minimal. Consequently, it was considered that the special circumstances in this instance were given considerable weight to override the strict planning policy presumption against new dwellings in the open countryside.

### **Scope of this application**

Extensions to the time limits for implementing existing planning permissions were brought into force on 1 October 2009. The new system was introduced in order to make it easier for developers to keep planning permissions alive for longer during the economic downturn. It includes provisions for a reduced fee and simplified consultation and other procedures.

The Government's advice is for Local Planning Authorities to take a positive and constructive approach towards applications that improve the prospects of sustainable development being brought forward quickly. It is the Government's advice for Local Planning Authorities to only look at issues that may have changed significantly since that planning permission was previously considered to be acceptable in principle.

In short, it is not intended for Local Planning Authorities to re-open debates about principles of any particular proposal except where material circumstances have changed, either in development plan policy terms or in terms of national policy or other material considerations such as Case Law.

### **Material changes in policy/circumstances since previous application**

The application remains unchanged from the previous approval, which was assessed under the same development plan. As such there are no changes in circumstances or Local Plan policies that would warrant an objection to the proposal. The application involves development on garden land so it is important to consider the implications of the amendments made to Planning Policy Statement 3: Housing on 9<sup>th</sup> June 2010, which amended Annex B so that private residential curtilages are removed from the definition of previously developed

land. An additional sentence has also been added to paragraph 41 of the PPS which states that brownfield land is the priority for development, to say that *'there is no presumption that previously developed land is necessarily suitable for housing, nor that all of the curtilage should be developed'*.

However, it is a material consideration that a dwelling occupied the site and the harm of the proposed dwelling which would occur to the character and appearance of the open countryside would be minimal.

Based on the draft National Planning Policy Framework it is not anticipated that there will be a change in national policy that would affect this proposal, however Members will be updated accordingly following the expected imminent publication of the document.

## **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;
- No detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implemented the Directive by introducing The Conservation of Habitats and 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.

Local Plan Policy NR2 (Statutory Sites) states that proposals for development that would result in the loss or damage of any site or habitat which supports protected species will not be permitted. Furthermore the developers will be required to submit a comprehensive assessment of a proposals impact on nature conservation as part of an application to develop the site.

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."*

PPS9 (2005) advises LPAs to ensure that appropriate weight is attached to protected species:

*“Where granting planning permission would result in significant harm .... [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where ... significant harm ... cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.”*

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to:

*“Refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm.”*

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

It is noted that the submitted protected species is out of date. However, the Councils ecologist has been consulted and upon reviewing the submitted information states that ‘*The ecological survey submitted in respect of the earlier application noted that the pond on site is unsuitable for Great Crested Newts or Lesser Silver Diving Beetles. As there are no buildings on site potential for roosting bats also appears limited. I advise that the proposed extension of time application is unlikely to have a significant adverse impact on protected species*’. Consequently, it is considered that the proposal is in accord with policy NE.9 (Protected Species) of the Local Plan and PPS9.

## **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The Greater Flexibility Guidelines issued by the Government recognises that there are situations where flexibility and responsiveness to the challenging circumstances faced by the development community can easily be accommodated by the Local Planning Authority.

It is considered that there have not been any significant material changes in either circumstances or policy since application P08/1274 was originally permitted. Therefore, it is recommended that the application to extend the period of permission should be approved, subject to the same conditions that were applied in 2009.

**That the application be approved subject to the following conditions:**

- 1. Standard Time Limit**
- 2. Plan References**
- 3. Materials**
- 4. Surfacing Materials**
- 5. Landscape to be Submitted**
- 6. Landscape to be Implemented**
- 7. Drainage Details to be Submitted and Approved**

- 8. Detailed Specification of all Renewable Energy Features**
- 9. Window Reveal Details to be Submitted and Approved**
- 10. Demolition of Existing Buildings**
- 11. Remove PD Rights – Extensions and Outbuildings**
- 12. Works to Stop if Protected Species Found**
- 13. No Trees Removed Other Than Those Specified in the Arboricultural Report**
- 14. Tree Protection Measures**
- 15. Boundary Treatment**
- 16. Tree/Vegetation Removal to Take Place Outside Bird Breeding Season**
- 17. Detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds.**

