

Application No: 12/3106N

Location: LAND ON CHAPEL LANE, BADDILEY

Proposal: Erection of 3-Bed Dormer Bungalow for Wheelchair User and Family

Applicant: MR DAN CUNDALL

Expiry Date: 05-Oct-2012

<b>Planning Reference No:</b>	12/3106N
<b>Application Address:</b>	LAND ON CHAPEL LANE, BADDILEY
<b>Proposal:</b>	Erection of 3-Bed Dormer Bungalow for Wheelchair User and Family
<b>Applicant:</b>	MR DAN CUNDALL
<b>Application Type:</b>	FULL PLANNING
<b>Ward:</b>	WRENBURY
<b>Registration Date:</b>	10 <sup>th</sup> August 2012
<b>Date report Prepared:</b>	18 <sup>th</sup> September 2012

#### **SUMMARY RECOMMENDATION**

Approve subject to conditions

#### **MAIN ISSUES**

Principle - Open Countryside

Design

Amenity

Highways

Ecology

#### **Reason for Referral**

The application has been referred to Strategic Planning Board as the proposal represents a Departure from the Development Plan and the previous application 11/2017N was also determined by Members.

#### **DESCRIPTION OF SITE AND CONTEXT**

The application relates to a paddock area to the front of an existing property known as Fields Farm, which lies to the north of the site. The application site would be accessed off an

existing track which serves the farmhouse. The site is situated wholly within the Open Countryside, as defined by the Borough of Crewe and Nantwich Replacement Local Plan 2011.

Outline planning permission has been granted for a disabled persons dwelling on site under reference 11/2017N.

## **DETAILS OF PROPOSAL**

The application seeks full planning permission for a detached dwelling to be occupied by a wheelchair user and his family.

## **RELEVANT HISTORY**

11/2017N Fields House Chapel Lane Baddiley. An Outline application was approved on 5<sup>th</sup> December 2011 for a 3 bedroom dormer bungalow for a wheelchair user and his family

## **POLICIES**

### **Regional Spatial Strategy (NW)**

DP1 Spatial Principles  
DP2 Promote Sustainable Communities)  
DP 4 Make the Best Use of Existing Resources and Infrastructure  
DP 5 Manage Travel Demand; Reduce the Need to Travel  
DP7 Promote Environmental Quality  
DP8 Mainstreaming Rural Issues  
DP9 Reduce Emissions and Adapt to Climate Change  
RDF2 Rural Affairs  
L4 Regional Housing Provision

### **Borough of Crewe and Nantwich Replacement Local Plan 2011**

BE1 (Amenity)  
BE2 (Design)  
BE3 (Access and Parking)  
BE6 (Development on Potentially Contaminated Land)  
NE2 (Open Countryside)  
NE5 (Nature Conservation and Habitats)  
NE9 (Protected Species)  
RES5 (Housing in the Open Countryside)

## **Other Material Considerations**

National Planning Policy Framework

## **CONSULTATIONS (External to Planning)**

### **United Utilities:**

No objection.

### **Ecology:**

No objection.

### **Highways:**

The Strategic Highways Manager has raised no objection to the application.

### **Environmental Health:**

No objection subject to a note reminding the applicant of their duty to adhere to Part 11A of the Environmental Protection Act 1990 and current Building Regulations with regards to contaminated land; and the following condition:

- (i) The hours of construction of the development (and associated deliveries to the site) shall be restricted to:

Monday – Friday	08:00 to 18:00 hrs
Saturday	09:00 to 14:00 hrs
Sundays and Public Holidays	Nil

## **VIEWS OF SOUND & DISTRICT PARISH COUNCIL**

Support the application.

## **OTHER REPRESENTATIONS**

No representations received at time of report preparation.

## **OFFICER APPRAISAL**

### **Principle of Development**

The principle of residential development has already been accepted under a recent planning permission 11/2017N. Outline consent was granted with a personal permission for a detached 3 bedroom dormer bungalow for a wheelchair user, Mr Dan Cundall. The appellant's personal circumstances were considered to be of a sufficient material consideration to outweigh the general presumption against new residential development in the Open Countryside, as set out in the Development Plan. As such, the key issues surrounding the determination of this application is whether or the proposal would comply with Local Plan policies BE1 (Amenity), BE2 (Design), BE3 (Access and Parking), BE6 (Development on Potentially Contaminated Land), NE5 (Nature Conservation and Habitats) and NE9 (Protected Species)

## Highways

The Strategic Highways Manager has raised no objection to the application. As such, it is not considered that the proposal would raise any significant concerns in respect of traffic generation or highways safety impacts. There would also be sufficient parking provision within the site for several vehicles. Having regard to the above, the application would accord with Local Plan policy BE3 (Access and Parking).

## Design

The application proposes a detached 3No bedroom dormer bungalow. The site is a modest corner plot at the junction of the access track serving Fields farmhouse, and Chapel Lane. This is situated at the end of a row of detached dwellings which form a ribbon development along Chapel Lane. The proposed development would therefore form a continuation of this row and would not appear as an isolated dwelling. Furthermore, the site is relatively well screened by existing vegetation and, given the scale of the dwelling which would be a 1 ½ storey bungalow, the development would not be highly prominent or visually intrusive within the landscape.

The proposed dwelling would take the form of a simple pitched roof building with a projecting gable to create an L-shape. The size of the building is reflected by the functional needs of the applicant. The main focus of the building would be the western elevation overlooking the adjacent fields, with the front door occupying the northern facing elevation to provide ease of access from the parking area. The dwelling would be set back from the Chapel Lane frontage by around 12 metres and, whilst the side elevation would front the road, the architectural detailing would enhance the visual appearance of the dwelling in the streetscene. The intended materials, such as Cheshire brick and blue Staffordshire tiles, would be characteristic of the area, whilst the timber cladding would add a contemporary feature. Surrounding properties comprise of a mix of individually designed dwellings of varying architectural styles and, as such, the design of the proposed dwelling would not appear incongruous in its setting. In the interests of protecting the character and appearance of the Open Countryside and the visual amenity of the site, permitted development will be removed for extensions, roof alterations and buildings within the curtilage of the dwelling (Part 1 - A, B, C & E).

The application also includes a detached garage and store which would be situated to the north of the dwelling and set back from the access to form a small driveway and turning area. This would accommodate 1No car and would be clad in timber to match the cladding elements on the dwelling. The garage would be subordinate to the main dwelling and would form a grouping of buildings within the site curtilage, avoiding unnecessary encroachment into the Open Countryside. The design of the outbuilding would also be in-keeping with the style and appearance of the proposed dwelling.

The site is well contained with mature hedgerows to the south and western boundaries which add to the character and appearance of Chapel Lane. In the interests of visual amenity, it is considered that these hedgerow boundaries should be retained. A condition will be attached to secure the retention and protection of existing trees and hedgerows on site.

In design terms, it is considered that the proposed dwelling is of an acceptable scale and appearance and would comply with Local Plan policy BE2 (Design).

## **Amenity**

A key consideration in the determination of the application is the impact of the proposal on neighbouring residential amenity.

The nearest residential property to the site is Chapel House which is over 45 metres to the east of the site, beyond the access track. This would be an acceptable separation distance to avoid any overlooking or loss of privacy impacts and is considerably in excess of the 21 metre spacing standard which is used to maintain an adequate level of privacy between dwellings. Furthermore, the habitable windows in the east facing elevation are ground floor level. It is not considered that the proposed dwelling would give rise to any adverse impacts on the residential amenity afforded to this neighbouring property.

The application property would share the vehicular access track which serves Fields farmhouse which is in the same land ownership. The farmhouse is situated over some 120 metres from the application dwelling. As such it is not considered that there would be any adverse impacts on the amenity of this property over and above the existing site arrangements. Whilst the proposed dwelling would increase the use of the access track, this would not be overly intensive given the scale and nature of the proposal. Furthermore, the access would only be shared for a short length in proximity to Chapel Lane.

Other properties on the opposite side of Chapel Lane are over 70 metres in distance to the application site, which would be a sufficient separation distance in terms of neighbouring amenity impact.

The site would accommodate a sufficient level of usable private amenity space in excess of the 50sqm guidance and would provide an acceptable level of amenity for future occupiers of the dwelling.

Having regard to the above, the proposal would have an acceptable amenity impact and would comply with Local Plan policy BE1 (Amenity).

## **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 favorable conservation status in their natural range

The UK implements the Directive in the Conservation of Habitats & 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.

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.”*)

The NPPF 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.”*

The NPPF 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.

The Council’s ecologist does not anticipate there being any significant ecological issues with the proposed development. In this regard, there would be no conflict with Local Plan policies NE5 (Nature Conservation and Habitats) and NE9 (Protected Species).

## **Other Matters**

### Condition 15 of 11/2017N

The previous permission 11/2017N was approved with a personal condition specifically to Mr Dan Cundall.

Condition 15 states:

*The permission shall only be implemented by Mr. Dan Cundall. When the premises cease to be occupied by Mr. Dan Cundall, the use allowed must be stopped and all materials and equipment brought on to the premises in connection with the development must be removed unless a further planning permission has first been granted on application to the Local Planning Authority.*

*Reason: Due to the special circumstances of the case and in accordance with the advice contained within "The Planning System: General Principles", which accompanies Planning Policy Statement 1 (April 2005) the use is granted in favour of the applicant.*

The condition however is restrictive in that once the building ceases to be occupied by Mr Dan Cundall the use must stop and all materials and equipment brought on to the premises must be removed, unless a further planning permission has first been granted. On the basis of this condition, Mr Dan Cundall was unable to obtain a mortgage to finance the building costs. As such he cannot proceed with the development. Furthermore, the condition creates uncertainty if a further permission was to be refused in the future if the family situation changed (i.e. if Mr Dan Cundall was to pass away before his wife). Unintentionally it would appear that condition 15 was overly restrictive.

It is still suggested that a restrictive condition should be applied given the circumstances of the application and the presumption against new residential development in the Open Countryside. However this should account for Mr Dan Cundall, his spouse, family, dependants or carers. Additionally, in these circumstances, it would not require the building to be removed in the future.

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

The principle of the development was previously accepted by Members under outline planning approval 11/2017N, due to the personal circumstances of the applicant Mr Dan Cundall who is severely disabled. The proposal is acceptable in design terms and would not be detrimental to neighbouring residential amenity. The proposed dwelling would utilise an existing access to Fields farm and would not raise any significant concerns in respect of traffic generation or highways safety impacts. It is not anticipated that there would be any adverse ecological issues associated with the proposed development. The application is a departure from the Development Plan. However having regard to all other considerations, the application is recommended for approval, subject to the following conditions:

1. Time
2. Approved Plans
3. Material samples to be submitted
4. Implementation of landscaping scheme (Drawing number 008)
5. Details of boundary treatments
6. Hours of construction
7. Retention and protection of trees and hedgerows to boundaries
8. Removal of permitted development Part 1 A, B, C & E
9. Dwelling to be occupied by Mr Dan Cundall, his spouse, family, dependants or carers only

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