

Application No: 12/3805N

Location: Land between the A500 and Weston Lane

Proposal: Change of use from agricultural land to an area of land specifically landscaped and engineered in order to provide a mitigation habitat for Great Crested Newts. This will include the creation of eight ponds.

Applicant: Kevin Melling, Cheshire East Council

Expiry Date: 07-Dec-2012

SUMMARY RECOMMENDATION:

The application be delegated to the Head of Development Management and Building Control to consider any late representations received up to the neighbour notification expiry date of 14th November 2012 and then to APPROVE the application, subject to conditions.

MAIN ISSUES:

- **The impact upon the character and appearance of the open countryside**
- **The impact upon neighbouring residential amenity**
- **The impact upon Protected Species**

REFERRAL

The application has been referred to Strategic Planning Board because it is linked to a second planning application for the Crewe Green Link Road which will be referred to the Strategic Planning Board over the next few weeks.

DESCRIPTION OF SITE AND CONTEXT

The site is located to the south of the A500 and to the north of Weston Lane within the open countryside. The site is an L shaped parcel of agricultural land. The site is bound by hedgerows and trees with a Public Right of Way running to the west of the site. To the south-west of the site is Dairy House Farm, which includes a traditional farmhouse, a converted barn and some small scale modern agricultural buildings.

DETAILS OF PROPOSAL

The proposed development relates to the construction of 8 ponds which will be of varying shape, depth and profile. The surrounding land would be subject to terrestrial habitat improvement which

would involve an appropriate wild flower grass seed mix with the remaining terrestrial habitat being subject to native deciduous woodland planting and scrub planting.

The proposed ponds would form the Great Crested Newt mitigation for the Crewe Green Link Road.

RELEVANT HISTORY

The site has no relevant planning history

POLICIES

National Planning Policy

National Planning Policy Framework

Local Plan policy

NE.2 – Open Countryside

NE.5 – Nature Conservation and Habitats

NE.9 – Protected Species

BE.1 – Amenity

BE.2 – Design Standards

BE.3 – Access and Parking

Other Legislation

EC Habitats Directive

Conservation (Natural Habitats &c.) Regulations 1994

ODPM Circular 06/2005

CONSULTATIONS (External to Planning)

Environmental Health: No comments received at the time of writing this report

Highways: No comments received at the time of writing this report

Environment Agency: No objection

Natural England: Natural England do not object to the proposed development. On the basis of the information provided in the original application and subsequent additional pond detail, the advice is that the proposed development is likely to affect great-crested newts through disturbance, damage and destruction of or resting place. Natural England are satisfied however that the proposed mitigation would maintain the population identified in the survey report and subsequent mitigation strategy proposed.

VIEWS OF THE PARISH / TOWN COUNCIL:

Weston & Basford parish Council: No comments received at the time of writing this report

OTHER REPRESENTATIONS:

A letter of concern has been received from the occupants of Dairy House Farm and The Coach House raising the following points:

- Concerned that the Newts on this site may have an adverse effect on the owners property should they wish to make any planning application in the future
- A barrier is required to prevent newts straying onto their property
- The borrow pit is close to the PRO and Dairy House Farm and should be re-sited
- Concerned about security of the site and unauthorised entry for use by motorcycles, mountain cyclists and illegal occupiers
- Questions over the future management of the site
- Concern about the left over land – what will happen to this?
- How will the land be maintained

APPLICANT'S SUPPORTING INFORMATION:

Supporting Planning Statement (Produced by Jacobs)

Great Crested Newt Survey (Produced by Jacobs/Cheshire East Highways)

9. OFFICER APPRAISAL

Principal of development

The National Planning Policy Framework states that Local Authorities should contribute and enhance the local and natural environment by

'minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures'

Policy NE.2 states that within the open countryside only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers or other uses appropriate to the rural area will be permitted. In this case the creation of ponds and habitat creation is appropriate to the rural area and comply with Policy NE.2.

The principal of the development is therefore considered to be acceptable.

Amenity

Given the scale of the development there would be no impact upon the residential amenity of nearby properties.

Design

The proposed ponds would be small scale and would not appear out of character for this area of south Cheshire. Once the habitat creation and planting begins to establish there will be minimal visual impact from this proposal.

Protected Species

In support of this application and the amended planning application for the Crewe Green Link Road, an updated Great Crested Newt Survey has been produced.

This survey covers the entire Basford East site with a total of 30 ponds, marshes and swamps surveyed. Great Crested Newts were recorded in 14 ponds on the site (seven ponds to the west of Basford Brook and seven ponds to the east of Basford Brook). The peak count per pond ranged from 1 to 7 and the population size class estimate per pond using is small using the English Nature guidelines.

The ponds to the east of Basford Brook form a meta population and the ponds to the west of Basford Brook form a meta population. If the peak counts were summed across all ponds to the east there would be a medium population size class with a small population size class estimate to the west.

As part of the proposed Crewe Green Link Road, no ponds would be lost but there would be a loss of Great Crested Newt habitat. The proposed ponds would serve any newts that may be trapped within the application site prior to or the construction works commencing. Any newts caught within the site would be relocated to the ponds proposed as part of applications 12/3804N or 12/3805N.

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 and
- no detriment to the maintenance of the species population at favourable 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."

NPPF advises that LPA's should contribute 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'.

The NPPF also states that the planning system should contribute to and enhance the natural and local environment by:

'minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures'.

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.

In terms of the 3 tests, it is considered that:

- There are no satisfactory alternatives as the proposed link road would need to cross the development site known as Basford East
- The derogation is not detrimental to the maintenance of GCN as the site supports relatively small numbers of GCN and no breeding ponds would be lost. Furthermore, a scheme of mitigation includes the construction phase of the development, the construction of ponds, habitat creation and enhancement will be provided as part of the development.
- There are imperative social reasons of overriding public interest as the development would improve transport links across Crewe and ease congestion along Nantwich Road.

Other issues

The borrow pit does not form part of this application and the comments raised in relation to this cannot be considered as part of this planning application.

10. CONCLUSIONS

The proposed development is an acceptable form of development within the open countryside. The proposal is considered to be acceptable in terms of its impact upon protected species subject to suitable mitigation. The development would have no impact upon residential amenity and minimal impact upon the character and appearance of the area. The proposal is therefore considered to comply with Policies NE.2 (Open Countryside), NE.5 (Nature Conservation and Habitats), NE.9 (Protected Species), BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Access and Parking) and BE.4 (Drainage, Utilities and Resources) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the National Planning Policy Framework.

11. RECOMMENDATIONS

The application be delegated to the Head of Development Management and Building Control to consider any late representations received up to the neighbour notification expiry date of 14th November 2012 and then to APPROVE the application, subject to the following conditions:

APPROVE: Conditions

- 1. Standard – 3 years**
- 2. The development shall be carried out in accordance with the approved plans and the Great Crested Newt pond and habitat creation specification**

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