

Application No: 14/2587N

Location: ROSE COTTAGE, SOUTH VIEW LANE, CHOLMONDESTON,
CHESHIRE

Proposal: Erection of single dwelling, associated parking and landscaping.

Applicant: Mr & Mrs J Todd

Expiry Date: 18-Jul-2014

MAIN ISSUES

- Planning History
- Principle of Development
- Sustainability of the Site
- Amenity
- Design
- Flood Prevention/Drainage
- Highways
- Trees
- Ecology

SUMMARY RECOMMENDATION

Refuse

REFERRAL

The application is referred to the Southern Planning Committee at the request of Cllr Michael Jones for the following reason:

'This is called in because of the exception rule using tied housing to support rural occupations as this is for a teacher, the head of a local school.

This application is supported by two parish councils and is a blight on the site'

1. SITE DESCRIPTION

This application relates to a parcel of land to the northern side of South View Lane within the Open Countryside as defined by the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The application is currently flat and includes a small barn building which is of a poor state of repair. The site is bound by hedgerows and trees with an existing access to the north-east of the site.

Between the site and South View Lane is a small paddock which includes a small stable building.

2. DETAILS OF PROPOSAL

This is a full application for the erection of 1 two-storey dwelling. Access is via the existing access to the north-east of the site.

3. PREVIOUS RELEVANT DECISIONS

09/2716N – Replacement Dwelling – Refused 19th November 2009 for the following reasons:

- The use of the site has been abandoned and the construction of a new dwelling in the open countryside is contrary to the Local Plan and warrants an intrusion into the open countryside. The dwelling is located in an isolated location and is an unsustainable location.
- Insufficient evidence to show that the required visibility splays can be achieved.

P91/0097 – Outline application for a replacement dwelling - Refused 20th November 1991 for the following reason:

- The dwelling has not been in use for 30 years and has been abandoned. The development would result in an unwarranted intrusion into the open countryside.

An appeal was lodged against the refusal of application P91/0097 and the appeal was dismissed on 30th June 1992

7/6011 – Reconstruction and restoration of cottage to its former appearance and to provide living accommodation - Refused 1st November 1979 for the following reasons:

- The building is in a derelict and ruinous condition. The site is used for agricultural purposes and the residential use has been abandoned.
- A new dwelling on the site would be contrary to open countryside policies. The dwelling would be located in an isolated location.

7/0.4201 – Restoration of a cottage to a habitable condition to be used as a private residence - Refused 27th July 1978 for the following reasons:

- The building is in a derelict and ruinous condition and could not be restored without demolition and the erection of a new dwelling.
- The site is within the open countryside and would be contrary to local plan policies which include a general presumption against development in the open countryside.
- New development should be concentrated on existing villages and the development is not essential for the purposes of agriculture.

- The new dwelling would be located in an isolated location and unconnected with any village and would be visually undesirable.

4. PLANNING POLICIES

National Policy

The National Planning Policy Framework

Local Plan Policy

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)
 RES.2 (Unallocated Housing Sites)
 RES.3 (Housing Densities)
 RES.8 (Affordable Housing in Rural Areas outside Settlement Boundaries)

Other Considerations

The EC Habitats Directive 1992
 Conservation of Habitats & Species Regulations 2010
 Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
 Interim Planning Statement Affordable Housing
 Interim Planning Statement Release of Housing Land
 Strategic Housing Market Assessment 2010

Cheshire East Local Plan Strategy – Submission Version

PG2 – Settlement Hierarchy
 PG5 - Open Countryside
 PG6 – Spatial Distribution of Development
 SC4 – Residential Mix
 SC5 – Affordable Homes
 SD1 - Sustainable Development in Cheshire East
 SD2 - Sustainable Development Principles
 SE3 – Biodiversity and Geodiversity
 SE5 – Trees, Hedgerows and Woodland
 SE 1 Design
 SE 2 Efficient Use of Land
 SE 4 The Landscape
 SE 5 Trees, Hedgerows and Woodland
 SE 3 Biodiversity and Geodiversity
 SE 13 Flood Risk and Water Management
 SE 6 – Green Infrastructure
 IN1 – Infrastructure
 IN2 – Developer Contributions

5. OBSERVATIONS OF CONSULTTEES

United Utilities: No known sewers within the vicinity of the site, a separate metered supply will be required to each unit.

Strategic Highways Manager: No objection. An informative should be attached to the decision notice.

Environmental Health: Informatives suggested in relation to hours of operation and contaminated land.

6. OTHER REPRESENTATIONS

Representations have been received from 5 households in the area raising the following points;

- No objection to the development and planning permission should be granted
- Pleasant house design
- The development will use an existing access point
- It would be good to see the old farm house reconstructed
- Surprised that the earlier application was refused
- The proposal would make a positive contribution to the local community
- The development is fully compliant with planning rules
- The house is stepped back from the road
- The development would enhance the character of the area

The full text of the representations are available to view on the Councils website.

7. PARISH COUNCIL

Cholmondeston and Wettenhall Parish Council: The Parish Council make the following comments:

- Mr & Mrs Todd have presented their scheme to the Parish Council and the Parish Council cannot see any reason why this application cannot be passed for development.
- The property has been derelict for a considerable number of years. As the footings are still visible, it seems a sensible solution to allow a redevelopment on an original site. The Councillors have viewed all the plans and various surveys that have been undertaken, and can see no logical reason as to why such a proposal cannot be approved.
- Mrs & Mrs Todd have been residents in the local area for the past 11 years and are well respected among the community. Mrs Todd is now Head Teacher at the Primary School in Worleston (less than 5 miles from her proposed home) and as a “Key Worker” in the local area, we should be doing all we can to support her bid to reside in the local area.
- There is no impact on the local residents to this property being redeveloped, with many welcoming the idea that the current eyesore is updated. With The Government pushing for more homes to be built in rural Parishes, it makes little

sense that this property is left undeveloped, when a local resident is striving for improvements.

- The Parish Council unanimously support the proposal for Mr & Mrs Todd and Rose Cottage and we look forward to a positive outcome on their behalf.

8. APPLICANT'S SUPPORTING INFORMATION

Landscape and Visual Impact Assessment (Produced by Camlin Lonsdale Landscape Architects)

Design and Access Statement (Produced by Picea)

Ecological Appraisal (Produced by Envirotech)

9. OFFICER APPRAISAL

Planning History

A dwelling known as Rose Cottage was once located on this site and a number of planning applications have been refused for a dwelling on this site in 1978, 1979, 1991 and 2009. As a result it is important to consider that planning history of this site.

The former Rose Cottage is in a derelict and ruinous condition, in 2009 only a small proportion of the external walls remained and on the most recent site visit the remains were hardly visible above the grass and vegetation on the site.

The officer's report for application 7/4201 dating from 1978 states that:

'This cottage is in a derelict and ruinous condition. It has no roof and the first and ground floor ceilings have fallen through. The brickwork is perished and cracked and the walls bulge even though they have been pinned in the past. The best part of the building is the barn which is to the east side of the cottage which is in agricultural use'

And

'the applicant was seen on site and said that the dwelling has been vacant for approximately 20 years',

A second application was made in 1979 and the officer's report for application 7/6011 identifies that the condition of the building had deteriorated further where it states that:

'the front of the cottage has collapsed since the last application was made in June 1978'

An outline application P91/0097 for a single dwelling was refused and an appeal was dismissed as part of his decision the Inspector found that:

'I am in no doubt that the renovation works required to bring the building back into residential use would be so extensive as to be tantamount to

the building of a new dwelling. I consider that a new dwelling in this rural situation, involving the re-construction of the driveway and the clearance of a residential curtilage would be seriously harmful to the existing open and rural character of the area, more so than to allow the existing building remains to deteriorate further'

From the planning history to this site it can be concluded that the residential use of the site has been abandoned as the former dwelling has not been occupied for approximately 55 years, there have been intervening agricultural uses of the land and the building is no longer in position on this site and is not capable of being occupied as a dwelling.

It should also be noted that the site does not meet the definition of previously developed land as contained within the NPPF. This definition excludes; '*land that is or has been occupied by agricultural and forestry buildings*' and '*land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time*'

Principle of Development

The site lies within the Open Countryside as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policies NE.2 and RES.5 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a "departure" from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined "*in accordance with the plan unless material considerations indicate otherwise*".

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

Housing Land Supply

The National Planning Policy Framework (NPPF) confirms at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

"identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and

competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”.

The NPPF clearly states at paragraph 49 that:

“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- specific policies in the Framework indicate development should be restricted.”*

Appeal decisions in October 2013 concluded that the Council could not conclusively demonstrate a five year supply of deliverable housing land. This was founded on information with a base date of 31 March 2012 selectively updated to 31 March 2013.

In response, in February 2014 the Council published a 5 Year Supply Position Statement which seeks to bring evidence up to date to 31 December 2013. The Position Statement set out that the Borough’s five year housing land requirement as 8,311. This is based on the former RSS housing target of 1150 homes pa – mindful that the latest ONS household projections currently stand at 1050 pa. This was also calculated using the ‘Sedgefield’ method of apportioning the past shortfall in housing supply across the first five years. It included a 5% buffer, which was considered appropriate in light of the Borough’s past housing delivery performance and the historic imposition of a moratorium.

The current deliverable supply of housing was therefore assessed as being some 9,757 homes. With a total annual requirement of 1,662 based on the ‘Sedgefield’ methodology and a 5% ‘buffer’ the *Five Year Housing Land Supply Position Statement* demonstrated that the Council has a 5.87 year housing land supply. If a 20% ‘buffer’ was applied, this reduced to 5.14 years supply.

Members will be aware that the Housing Supply Figure is the source of constant debate as different applicants seek to contend that the Council cannot demonstrate a five year supply. This has been the source of the many and on-going appeals as the Council’s defends its position against unplanned development. Despite the high

number of appeals only a limited number of decisions have been determined at this time, but they in themselves demonstrate the apparent inconsistency of approach.

Elworth Hall Farm, Sandbach (11 April 2014). It was determined that the Council had still not evidenced sufficiently the 5 year supply position, although the Inspector declined to indicate what he actually considered the actual supply figure to be. 1150 dwellings pa was the agreed target figure. The Inspector accepted the use of windfalls but considered a 20% buffer should be employed

Members should note, however, that the Elworth Hall Farm inquiry took place shortly after the publication of the Position Statement with only very limited time available to evidence the case. Since that time, the housing figures have been continuously refined as part of the preparation of evidence for further public inquiries which have taken place during the last few months and more are scheduled to take place within the coming months and against the RSS target, Cheshire East Council can now demonstrate a 6.11 year housing land supply with a 5% buffer or 5.35 year housing land supply with a 20% buffer.

Dunnocksfold Road, Alsager (14 July 2014). Inspector considered that the RSS figure was now historic and that the SHMA, SHLAA and populations forecasts were more recent along with the emerging Pre-Submission Core Strategy which proposes a target of 1350 dwellings pa. 1350 should therefore be the target (6750 as a 5 year supply figure). The Inspector also accepted the appellants backlog figure but agreed that a 5% (not 20%) buffer should be applied. However the use of windfalls was rejected. This gave a five year requirement of 10146 dwellings or 2029 pa. This results in a supply figure of 3.62 years. Even using the Council's assessed supply figure of 9897 this only provided 4.8 years of supply.

Members should note that this Inquiry also took place just a few days after the introduction of the position statement when there was little or no time to prepare the full evidence case.

Newcastle Road, Hough (14 July 2014). In the absence of evidence to the contrary the Inspector accepted that the position statement and that the Council could demonstrate a five year supply - 5.95 years with 5% and 5.21 with a 20% buffer. It was also considered that the RSS figures of 1150 pa represented the most recent objectively assessed consideration of housing need.

There is hence little consistency over the treatment of key matters such as the Housing Requirement, the Buffer and use of windfalls.

This state of affairs has drawn the attention of the Planning Minister Nick Boles MP who has taken the unusual step of writing to the Inspector for the Gresty Oaks appeal (14 July 2014) highlighting that the Planning Inspectorate have come to differing conclusions on whether Cheshire East can identify a five year supply. While he acknowledges that decisions have been issued over a period of time and based upon evidence put forward by the various parties he asked that "especial attention" to the evidence on five supply is given in the subsequent report to the Secretary of State. It

is therefore apparent that the Planning Minister does not consider the matter of housing land supply to be properly settled.

Taking account of the above views, the timing of appeals/decisions the Council remains of the view that it has and can demonstrate a five year supply based upon a target of 1150 dwellings per annum, which exceeds currently household projections. The objective of the framework to significantly boost the supply of housing is currently being met and accordingly there is no justification for a departure from Local Plan policies and policies within the Framework relating to housing land supply, settlement zone lines and open countryside in this area.

Open Countryside Policy

In relation to housing in the open countryside the NPPF states that *'local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work'*.

Policies NE.2 and RES.5 restrict development within the open countryside, and more generally restricts residential development, policy NE.2 states that:

'..An exception may be made where there is the opportunity for the infilling of a small gap with one or two dwellings in an otherwise built up frontage.'

The site is located in an isolated location and does not constitute an "otherwise built up frontage" and no evidence has been submitted to show that the dwelling is required for a person engaged full time in agriculture or forestry. The proposal is therefore considered to be contrary to Local Plan Policy and to national planning policies which restrict new dwellings in the countryside and also contrary to government advice to promote sustainable development and reduce the number of car journeys.

Furthermore the proposed development would not be required for a person engaged full time in agriculture or forestry and would not comply with Policy RES.5.

The Design and Access Statement which has been submitted with this application identifies that the applicants are a *'married couple with a growing family living in a small cottage further down South View Lane. Mrs Todd is a Head Teacher at a local school and therefore needs to be close to her work'*.

The key test is whether it is essential for the applicant to live on this site. In terms of the essential need for rural workers this would be most easily met by those engaged in livestock enterprises, especially intensive form of activity and dairying, where there are significant animal welfare issues. Given the applicants position as a local teacher there is no such essential need and such a need has not been identified within the application. The applicant could easily travel to work from existing settlements which would be more sustainable than this location.

Policy SC6 (Rural Exceptions Housing for Local Needs) of the Submission Version of the Local Plan is consistent with the National Planning Policy Framework in that it does not permit isolated new homes in the countryside, it states that:

'Sites should adjoin Local Service Centres and Other Settlements and be close to existing employment and existing or proposed services and facilities, including public transport, educational and health facilities and retail services'

Policy SC6 does make reference to key workers dwellings and further clarification on this is likely to be provided within a Supplementary Planning Document. However as the proposal does not meet the first requirement of Policy SC6 quoted above the development does not comply with this Policy.

In support of this view the Council has recently been successful at defending three recent appeals for isolated dwellings in the open countryside. The details are as follows:

- 13/2017N – The Poplars, Marsh Lane, Acton – This site is located within the open countryside 1.5km from Nantwich. The Inspector found that the site did not meet the definition of infilling. The Inspector also found that there are few facilities in the nearby village and that the future occupants would be largely dependent on the use of private vehicle. The Inspector concluded that; *'the Framework advocates that in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Nevertheless, on the basis of the information before me, I conclude that the construction of this single dwelling in the open countryside, remote from facilities and services would not satisfy the Framework's definition of sustainable development. The benefits arising from the proposal would be limited and would be significantly and demonstrably outweighed by the adverse impacts of this development in the open countryside and its harm to the intrinsic character and appearance of the area. The proposal would therefore, be contrary to the provisions of the Framework and the countryside protection objectives of Policy NE.2.'*

- 12/4876N – Bracken, Poole, Nantwich – This site is located within the Open Countryside within the residential curtilage of a dwelling known as Bracken, Dairy Lane which is 4.5km from Nantwich. The Inspector found that the development does not represent infilling of a small gap and is contrary to Policies RES.5 and NE.2 and paragraph 55 of the NPPF which seeks to avoid new houses in the countryside. The Inspector found that the site is not within convenient walking distance of most facilities and services required on a day to day basis and the future occupiers would be dependent on the private car. The Inspector concludes that: *'Although the proposal might not, of itself, generate large amounts of traffic, the cumulative effect of allowing such development in the countryside would increase the amount of unsustainable journeys made. Moreover, since local services would not be readily accessible to future occupiers, I do not agree with the appellant that the development would support local vitality or provide for local needs'*. In this case the lack of a 5 year housing land supply was not considered to outweigh the isolated and unsustainable nature of the appeal site.

- 13/4844C – Holly House Farm, Middlewich Road, Cranage – This site is 2.3 miles from Holmes Chapel and 2.5 miles from Middlewich and relates to a parcel of land with an extant planning permission for a two-storey business unit which formed a fall-back

position. In this case the Inspector found that the appeal proposal would have a lesser visual impact than the fall back position but this would only be of a limited benefit. The dwelling in this case is intended to be occupied by someone employed at Holly House Farm but the Inspector concluded that this would not meet the needs of agricultural workers nor would it address other matters that are subject to paragraph 55 of the NPPF. In terms of the location the Inspector found that: *'many of the shops and services that occupiers of the appeal scheme would be expected to use in person and on a frequent basis would be at such a distance that, given the rural nature of the locality and the travel options within it, a private car would reasonably be expected to be used by most occupiers of the family sized dwelling proposed'*. As a result the Inspector found that the scheme was not a sustainable form of development and the presumption in favour of development at paragraph 14 of the NPPF does not apply in this case.

Sustainability of the site

The site is an isolated location approximately 8.8km from Nantwich with local amenities not being within walking distance of the site. The applicants own Design and Access Statement identifies that the development is not sustainable located where it states that *'it is accepted that the site would not stand up to an assessment of sustainability when measured against the North West Sustainability Checklist'*.

To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a "Rule of Thumb" as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

The accessibility of the site shows that following facilities meet the minimum standard:

- Bus Stop (500m) – 354m
- Public Right of Way (500m) – 50m

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 8851m
- Child Care Facility (nursery or crèche) (1000m) - 5149m
- Outdoor Sports Facility (500m) – 6630m
- Primary School (1000m) – 2075m
- Children's Play Space (500m) – 965m
- Public House (1000m) – 2092m
- Convenience Store (500m) – 8851m
- Amenity Open Space (500m) – 2494m
- Pharmacy (1000m) – 6035m
- Post office (1000m) – 9334m
- Secondary School (1000m) - 6566m
- Medical Centre (1000m) - 5439m
- Community Centre/Meeting Place (1000m) – 3540m

The site is isolated with no local amenities in close proximity other than a bus stop and PROW. For other facilities the future occupants would need to travel by car to Nantwich or Winsford. The site is considered to be more isolated than the sites at The Poplars, Marsh Lane, Acton; Bracken, Poole and Holly House Farm, Middlewich Road, Cranage which the Council has successfully defended appeals for isolated dwellings. As a result the site is considered to be an unsustainable location and this issue will form a reason for refusal.

Amenity

Due to the large separation distances the development would not have a detrimental impact upon the residential amenities of any nearby property.

Design

The development would consist of a 2 two-storey dwelling. The dwelling would have a simple rectangular form, a pitched roof and a gabled canopy to the front elevation. The simple design of the dwelling is considered to be acceptable.

Highways

Although South View Lane is narrow it does have a low level of vehicular movements. A single vehicular access point is proposed and this would be positioned towards the east of the site. South View Lane is straight with a grass verge to both sides and has good visibility in both directions, the Strategic Highways Manager has assessed the application and raised no objection to this development. As a result the development would be considered to comply with Policy BE.3 (Access and Parking) of the Local Plan.

Trees

The trees and hedgerows which bound the site would be retained and as a result there is no issue in terms of tree and hedgerow loss.

Ecology

The Council's Ecologist has assessed the application and has concluded that the development will not raise any significant ecological issues subject to the imposition of a planning condition in relation to breeding birds.

10. CONCLUSIONS

The development relates to the provision of an isolated dwelling within the Open Countryside where under Policy NE.2 there is a presumption against new residential development. The development would not be an infilling of a small gap in an otherwise built up frontage and no essential need has been demonstrated. As a result the development would be contrary to Policies NE.2 and RES.5 of the Crewe and Nantwich Replacement Local Plan, guidance contained within the NPPF

(particularly Paragraph 55) and Policy SC6 (Rural Exceptions Housing for Local Needs) of the Submission Version of the Local Plan. The principle of development is unacceptable.

The site is located within an isolated location and the future occupants would be dependent on the use of the private motor car. As a result the application site is considered to be in an unsustainable location.

The proposal will not have a detrimental impact upon protected species, trees or hedgerows.

There are no design, amenity or highway issues associated with this application.

11. RECOMMENDATIONS

REFUSE

- 1. There is no essential need for a dwelling on this site and the site does not constitute a small gap in an otherwise built up frontage. The principle of development is unacceptable and would harm the character and appearance of the open countryside. Furthermore the proposal would create an isolated dwelling in the open countryside, by virtue of its remote location away from settlements, services and facilities. The proposal therefore does not constitute sustainable development and is contrary to the requirements of paragraph 55 of the National Planning Policy Framework. The proposed development is contrary to the requirements of Policy NE.2 (Open Countryside) the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011 and the NPPF.**

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chair (or in his absence the Vice Chair) of Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

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