
Appeal Decision

Site visit made on 21 November 2017

by Elizabeth Pleasant DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th December 2017

Appeal Ref: APP/A0665/W/17/3181223
Land at Swanlow Lane, Darnhall CW7 4BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Jennifer Newton against the decision of Cheshire West & Chester Council.
 - The application Ref 16/05433/OUT, dated 13 July 2015, was refused by a notice dated 16 February 2017.
 - The development proposed is the construction of two detached dwellings complete with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is for outline planning permission, with all matters reserved for future consideration. A drawing showing an indicative site layout was submitted with the application and I had regard to this in determining the appeal.

Main Issues

3. The main issues in this case are whether the appeal site is an appropriate location in principle for the proposed development and its effect on the character and appearance of the area.

Reasons

Development Plan

4. The development plan for the area comprises the Cheshire West and Chester Local Plan (Part One), Strategic Policies (LP) adopted January 2015 and the saved policies of the Vale Royal Borough Local Plan First Review Alteration, 2006 (VRBLP). The Cheshire West and Chester Local Plan (Part Two), Land Allocations and Detailed Policies Plan (LP Part Two) is still at an early stage in its preparation, and therefore the weight that can be afforded to it is limited.
5. LP Policy STRAT 1 sets out the Council's sustainable development principles and states that proposals that are in accordance with relevant policies in the Plan and support those specified sustainable development principles will be approved without delay, unless material considerations indicate otherwise.

Proposals that fundamentally conflict with these principles or policies within the Local Plan will be refused.

6. LP Policy STRAT 2 sets out a location strategy for development within the Borough. It states that over the Plan period, 2010-2030 at least 22,000 new dwellings will be delivered in line with a defined settlement hierarchy. It states that the majority of new development will be located within or on the edge of Chester City and the towns of Ellesmere Port, Northwich and Winsford. Further appropriate levels of development will be provided in identified key service centres and also in smaller rural settlements to be identified in the LP Part Two as local service centres.
7. LP Policy STRAT 9 seeks to protect the character and beauty of Cheshire's countryside by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. The explanatory text to this policy advises that the Council will identify settlement boundaries for the major urban areas, key service centres and local service centres through the LP Part Two. Land beyond these settlement boundaries will be classed as countryside and subject to the requirements of Policy STRAT 9. It further advises that until such time as the LP Part Two has been adopted, the retained policies in the VRBLP relating to settlement boundaries and beyond the existing built form of settlements will continue to operate.
8. Saved Policy GS5 of the VRBLP seeks to protect the character and appearance of the countryside which it defines as all parts of the Borough which lie outside of settlement policy boundaries but excluding North Cheshire Green Belt.

Appropriate location

9. The appeal site comprises some 0.78 hectares of open grassland and fronts onto Swanlow Lane. Although the site lies adjacent to Winsford's Parish boundary, it is located over half a kilometre from Winsford's settlement boundary as defined by the VRBLP. The LP retains these settlement boundaries until such time as the LP Part Two is adopted, and in doing so provides clarity over which parts of the Borough are considered to be countryside. A clear basis is therefore provided for the operation of LP Policy STRAT 9 and VRBLP Policy GS5 and also for decision taking.
10. The appeal site is located in an area of countryside and well beyond the settlement boundary of Winsford. The proposed development would therefore clearly conflict with the Council's development strategy which seeks to locate new housing development to within or on the edge of Chester City, the towns of Ellesmere Port, Northwich and Winsford and also to within key service centres and smaller rural settlements. Furthermore, the appeal proposal would not be for any of the types of development which would be permitted in the countryside under Policy STRAT 9 of the LP.
11. I therefore conclude that the appeal site would not be an appropriate location in principle for the proposed development. It would conflict with the development plan and in particular Policies STRAT 1; STRAT 2 and STRAT 9 of the LP and Policy GS5 of the VRBLP, the aims of which are set out above.

Character and appearance

12. Beyond Winsford's settlement boundary, Swanlow Lane is characterised by ribbon development where farmsteads and cottages front onto the road and

are interspersed by fields. The sporadic nature of this existing development gives the road a rural quality which deepens the further you travel from the settlement edge. As Swanlow Lane extends beyond the parish boundary, where the appeal site is located, the gaps between built development increase and the countryside retains a more open and natural appearance.

13. The appeal site lies between a row of cottages and Style Farm and Barn. It has a substantial road frontage and its open grassland is clearly visible from the road. Furthermore, there are views of the open countryside beyond the native trees and bushes that form the site's western boundary. There is no doubt in my mind that the open and natural appearance of the site contributes significantly to the rural quality and character of this part of the countryside.
14. The proposed development would consolidate the built form along this part of Swanlow Lane and substantially diminish its existing rural quality. It would represent an encroachment of development into open countryside and have a harmful effect on the character and appearance of the area.
15. I conclude that the proposed development would have a harmful effect on the character and appearance of the area. It would conflict with the development plan and in particular with Policy STRAT 9 of the LP and Policy GS5 of the VRBLP which seek to protect the intrinsic character and beauty of the Cheshire's countryside.

Other Matters

16. The appeal submission is accompanied by an Ecological Appraisal¹ which identified a pond within 30 metres of the site which has the potential to support Great Crested Newts. Great Crested Newts are protected species under the Wildlife and Countryside Act, 1981, and as there is a realistic prospect of Great Crested Newts being present on the adjacent site, any impact that the development may have on their habitat is a material consideration. In view of my findings on the main issues set out above, this is not a matter that I need to address further. However, if the circumstances leading to a grant of permission had been present, in the absence of a specific survey relating to Great Crested Newts, it would not be clear whether the development could proceed without any impact or whether impact identified could be made acceptable through mitigation measures. Such matters should be considered prior to planning permission being granted for development in accordance with advice set out in Circular 06/2005, Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system.
17. The appellant has referred to the Winsford Neighbourhood Plan (NP). However, the appeal site does not lie within the Parish of Winsford and the Council has confirmed that the site does not fall within the NP boundary. The NP does not therefore form part of the development plan for the purposes of this appeal.
18. I have taken into account the Inspector's decision in relation to land adjacent to 615 Swanlow Lane², however that site lies within Winsford Parish and the Winsford Neighbourhood Plan was therefore a material consideration. Furthermore, that site has a smaller road frontage and its visual characteristics, including those of its immediate surroundings are not identical to this appeal case where I have identified harm to the character and

¹ Ecological Appraisal, Land at Swanlow Lane, Prepared by Leigh Ecology Ltd, dated 24 September 2017

² APP/A0665/W/16/3147928

appearance of the area. I have also had regard to the Council's decision in relation to a site in Utkinton³. These sites are not however directly comparable to this appeal case and in any event each case must be considered on its own merits.

19. I recognise that the appeal site may not comprise the best and most versatile agricultural land; however this consideration does not outweigh the harm I have found to the character and appearance of the area.

Planning Balance

20. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
21. Paragraph 14 of the National Planning Policy Framework (the Framework) states that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole. The VRBLP is now time expired and its housing requirement figures out-of-date. Whilst it is clear that Policy GS5 of the VRBLP seeks to safeguard the character and appearance of the countryside, an aim consistent with one of the Framework's core principles, this Policy also acts to constrain development outside of defined settlement boundaries identified in the VRBLP. However, there is no dispute that the Council has a five year housing land supply based on their current objectively assessed needs and I have found the proposed development would also conflict with Policies in the LP which also identify the appeal site as lying within an area of countryside. The site lies well away from Winsford's settlement edge and having regard to all these considerations I am satisfied that Policy GS5 is not out-of-date, and the presumption in favour of development does not apply.
22. The site would make a contribution to the supply of housing in the Borough, supporting the Government's ambition to boost significantly the supply of housing. This contribution would however be small and attracts limited weight in the planning balance. There would be some additional spend in the locality, and the dwellings would support some local services, but again, given the scale of the development, any economic benefit would be limited.
23. In environmental terms the site would not be isolated and there would be opportunities to access local services on foot, cycle or use public transport. However, I have found that the proposed development would cause significant harm to the character and appearance of the area and would conflict with the development plan and aims of the Framework. Furthermore, no evidence has been provided to demonstrate that the development would not have a harmful effect on Great Crested Newts. These are environmental matters that weigh heavily against the proposal.
24. Consequently, even if I had found that relevant policies in the development plan were to be out-of-date, and I was to apply the "titled balance" set out in paragraph 14, the economic and social benefits that would flow from two new dwellings would not significantly and demonstrably outweigh the environmental

³ Appendix 3, Appellant's Full Statement of Case

harm I have identified to the character and appearance of the area, and potential harm to protected species.

Conclusion

25. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Elizabeth Pleasant

INSPECTOR