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## Appeal Decision

Site visit made on 1 June 2020 by Hilary Senior BA (Hons) MCD MRTPI

**by Susan Ashworth BA (Hons) BPL MRTPI**

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

**Decision date: 24 June 2020**

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**Appeal Ref: APP/A0665/W/20/3247078**

**615 Swanlow Lane, Winsford, Cheshire CW7 4BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs E Dale against the decision of Cheshire West & Chester Council.
  - The application Ref 19/02795/FUL, dated 23 July 2019, was refused by notice dated 22 January 2020.
  - The development proposed is erection of 2 no detached two-storey dwellings with associated access, garaging, parking, gardens and external works.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 no detached two-storey dwellings with associated access, garaging, parking, gardens and external works at land adjacent to 615 Swanlow Lane, Winsford, Cheshire West and Chester, CW7 4BP in accordance with the terms of the application, Ref 19/02795/FUL, dated 23 July 2019 subject to the conditions in the attached schedule.

### Application for costs

2. An application for costs was made by Mrs E Dale against Cheshire West & Chester Council. This application is the subject of a separate Decision.

### Appeal Procedure

3. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matters

4. The application was originally submitted as a renewal of planning permission 15/04391/FUL which was allowed on appeal in 28 July 2016. <sup>1</sup> The application was validated after the original permission had lapsed and therefore the original permission cannot now be implemented. I have determined the appeal on this basis.
5. The site address is more accurately described in the Council's decision notice as land adjacent to 615 Swanlow Lane. I have used this description in the formal decision above.

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<sup>1</sup> APP/A0665/W/16/3147928

6. I have received representation from third parties that since the submission of the application the ownership of the land has changed. However, there is no evidence before me to that effect and I have dealt with the appeal as submitted.

### **Main Issue**

7. The main issue is whether the appeal site is a suitable location for housing having regard to national and local policies and in particular to the character and appearance of the area and the accessibility of the site to local shops and services.

### **Reasons**

#### *Policy background*

8. Policies STRAT 1 and STRAT 2 of the Cheshire West and Chester Council Local Plan, Part One, Strategic Policies (2015) (CWCLP1) set out the presumption in favour of sustainable development and collectively seek to direct new housing primarily to areas with good accessibility to existing services, specifically within or on the edge of identified settlements including Winsford in line with a settlement hierarchy.
9. Policy STRAT 9 of the CWCLP1 expands on the principles of policies STRAT 1 and STRAT 2. It is a criteria-based policy, setting out the circumstances where development within the countryside will be permitted. The appeal proposal does not fall within any of the categories listed in the policy.
10. Figure 2.1 of the Winsford Neighbourhood Plan (2014) (NP) shows the broad area of different land uses in the town. It is used to set the context for the NP area and to describe in broad terms the existing pattern of development. It does not form the basis of the policy in the local area. It is accepted by both parties that the appeal site lies outside the defined settlement boundary of Winsford and that it is within the countryside for planning purposes.
11. Policy H1 of the NP allows housing on allocated sites within the Plan area and Policy H2 supports development on previously developed land. The appeal proposal does not meet the criteria of either of these policies but nevertheless I note the policies do not restrict development solely to these areas.
12. Policy DM19 of the Cheshire West and Chester Local Plan Part Two Land Allocations and Detailed Policies (2019) (CWCLP2), which was adopted after the previous appeal decision was made, restricts development outside of settlement boundaries to that which is necessary to meet the minimum levels of development for new housing or where the proposal is for one of a number of specific categories of development.
13. As the proposal lies outside the defined settlement boundary, and does not constitute any of the exceptions listed, it would be contrary to the locational requirements of policy DM19 and STRAT9 and therefore the proposal would not be in accordance with the development plan.

#### *Character and appearance*

14. The appeal site lies within an area characterised by ribbon development on Swanlow Lane close to the boundary of Winsford. There is a row of terraced properties opposite the site and detached dwellings on each side of the appeal

site. To the rear of the site farm buildings and mature trees prevent long range views of the wider countryside. As such, in visual terms, the site does not form part of the wider open countryside. In addition, the land itself is overgrown and there is no suggestion that it is part of a valued landscape or could be considered the best and most versatile agricultural land. Moreover, being surrounded by built development, the proposal would not constitute physically isolated development.

15. The appeal proposal would fill a limited gap between existing dwellings and would be seen as infill development. In the vicinity of the site there are a wide range of dwelling types and styles. The proposed dwellings would be two storeys in height, of an appropriate scale and constructed in materials to complement the surroundings. The Council have not made any objection to the design of the dwellings and, whilst I note they are unusually designed with a flat roofed central section, I have no reason to consider that they are inappropriate for their context.
16. Due to the reasons above the development would not harm the character and appearance of the area. Therefore, the proposal would not conflict with policies Policy DM19 of the CWCLP2 in so far as it seeks to protect the intrinsic character, appearance and beauty of the countryside. It would also be consistent with paragraph 127 of the National Planning Policy Framework which amongst other things seeks to ensure that development is sympathetic to local character and landscape setting and maintains a strong sense of place.

#### *Suitable location*

17. The site lies outside the settlement boundary of Winsford. It does however lie on a main road into the town with a footway along its length and is within a short distance from the town centre and from shops and services including a primary school, post office, church and pub. I noted that the route is well lit and there is no convincing evidence before me to suggest it is not suitable for walking and cycling.
18. As set out above, the site is not in an isolated location and is not remote from the settlement of Winsford. Moreover, it has good access to facilities and services. Accordingly, there would be no need for reliance on a private vehicle for accessibility. In so far as the location of the development is concerned there would be no conflict with policy STRAT1 of the CWCLP1. In addition, it would accord with the principles of STRAT2 of the CWCLP1 which requires the majority of new development to be located within or on the edge of towns, including Winsford, and Policy DM19 of the CWCLP2 which seeks to avoid isolated development in unsustainable areas. In this respect the proposal would be consistent with the Framework paragraphs 78 and 79 which requires that housing should be located where it will maintain and enhance the vitality of rural communities and avoid isolated homes.

#### *Other matters*

19. I have been directed to another recent appeal decision by the Council. Although a site for residential development in the countryside, the locational characteristics differ from this appeal as it relates to a village location, not the edge of a town.

20. I note the concerns of third parties regarding the impact on the highway network and in particular on highway safety given the site lies on a busy road. However, the Council are satisfied that the proposed development would not materially harm highway safety and I have no evidence before me to disagree with their conclusion.
21. I have also taken into account comments that no further housing is required in the area. Whilst there is limited information before me in this regard, even if the Council can demonstrate a five year supply of housing land, this is not a ceiling to new development.

### **Planning Balance**

22. 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. As discussed above, the proposal is contrary to CWCLP2 policy DM19 and to CWCLP1 policies STRAT1, STRAT2 and STRAT9 in so far as they restrict development outside settlement boundaries.
23. However, the appeal site is in an accessible location, being close to the settlement boundary of Winsford and on a main road with good access to the town for shops and services. For the reasons set out above the proposal would not harm the character of the countryside or that of the surrounding area. Moreover, the proposal would not cause harm to any other interest of acknowledged importance. This limits the weight I give to the conflict with the policies outlined above.
24. Whilst the previous permission is no longer extant, the findings of the Inspector are a material consideration which I have taken into account. I note the conclusion of the Inspector in terms of the effect of the proposal on the character and appearance of the area and I have no evidence before me that that circumstances relating to that or to its accessibility have changed significantly since the previous appeal decision. Whilst I acknowledge that Policy DM19 was adopted after the previous appeal decision, I note that the substance of that policy is not significantly dissimilar to the policy position at the time of the previous decision.
25. In addition, the proposal would add two dwellings to the supply and mix of housing in the local area which is a benefit of the scheme. Furthermore, it would provide albeit limited economic benefit during the construction period, and beyond in terms of support to local services.
26. All in all, therefore, the harm that would be a consequence of the limited adverse impacts I have identified would not significantly and demonstrably outweigh the benefits referred to above when assessed against the policies in the Framework when taken as a whole. Consequently, the proposal would benefit from the presumption in favour of sustainable development as defined in the Framework, and material considerations indicate that planning permission should be granted for development that is not in accordance with the development plan. All these considerations taken together carry significant weight which, in this case, indicate that permission should be granted.

### **Conditions**

27. I have considered the conditions suggested by the Council in accordance with the Planning Practice Guidance. In the interest of proper planning I have attached a condition relating to time limits, and a condition specifying relevant plans to provide certainty. Conditions concerning external materials and landscaping are necessary in the interests of the character and appearance of the area. A condition is necessary to protect hedgehogs during the development phase in the interest of biodiversity.
28. I have not imposed a condition requiring Great Crested Newts reasonable avoidance measures, as the technical evidence provided indicates that it is highly unlikely they would be on the site. The conditions relating to electric vehicle charging points and to water consumption suggested by the Council have laudable aims in line with policies T5 and DM4 of the CWCLP2. I do not however have any evidence as to how the use of the charging points or consumption of water would be enforced and as such these conditions are not necessary in order to make the development acceptable.

### **Conclusion and Recommendation**

29. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is allowed.

*Hilary Senior*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

30. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

*Susan Ashworth*

INSPECTOR

### **Schedule**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan and Drawings 6515 -P001; - P101; and -P201; Extended Phase 1 Habitat Survey by The Tyrer Partnership, 5 July 2019.
- 3) Hedgehogs shall be protected during development in accordance with paragraph 9.4 of the Extended Phase 1 Habitat Survey by The Tyrer Partnership, 5 July 2019.
- 4) Full details of the materials to be used in the construction of external surfaces of the development hereby approved shall be submitted to and approved in writing by the local planning authority prior to any above ground construction works being carried out. Development shall be carried out in accordance with the approved details.
- 5) Prior to the first occupation/use of the hereby approved building, a scheme of landscaping, which shall include details of both hard and soft landscape

works and earthworks, has been submitted to, and approved in writing by, the Local Planning Authority. The scheme as approved shall be carried out in the first planting season following the completion development. Any trees, shrubs or plants that die within a period of five years from the completion of development, or are removed and/or become seriously damaged or diseased in that period, shall be replaced (and if necessary continue to be replaced) in the first available planting season with others of similar size and species, unless the Local Planning Authority gives prior written permission for any variation.