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## Appeal Decision

Site visit made on 16 January 2018

**by Nicholas Taylor BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27<sup>th</sup> February 2018**

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**Appeal Ref: APP/R0660/W/17/3187427**

**The Byres, Wybunbury Lane, Wybunbury, Cheshire CW5 7HD**

- 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 Mr and Mrs C Hughes against the decision of Cheshire East Council.
  - The application Ref 17/1160N, dated 1 March 2017, was refused by notice dated 5 September 2017.
  - The development proposed is new dwelling on land adjacent.
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### Decision

1. The appeal is allowed and outline planning permission is granted for a new dwelling on land adjacent at The Byres, Wybunbury Lane, Wybunbury, Cheshire CW5 7HD in accordance with the terms of the application, Ref 17/1160N, dated 1 March 2017, subject to the following conditions:
  - 1) Details of the appearance (including details of existing ground levels, proposed ground levels and the level of proposed floor slabs), landscaping (including hard surfacing materials and boundary treatment), layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
  - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
  - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
  - 4) Notwithstanding its otherwise indicative status, the access to the development shall be constructed as shown in drawing number 6757-02 Rev A.

### Procedural Matter

2. The application form indicates that the scheme was submitted in outline form, with all detailed matters reserved for subsequent determination. However, the Design and Access Statement (DAS), submitted with it, states that the position of the access is part of the proposal at this stage, with layout, scale, appearance and landscaping reserved. The drawing submitted with the application is described as indicative. This position is confirmed in the appeal

statement, Council officer report and decision notice and I have, therefore, determined the appeal on that basis.

### **Main Issue**

3. The main issue in this case is whether the proposed development would provide a suitable location for a dwelling, having regard to the character and appearance of the rural location and its proximity and accessibility to services.

### **Reasons**

4. The proposal is for a detached, two storey house, adjacent to and forming part of the gardens and grounds of The Byres, a sizeable dwelling or dwellings, which the Parish Council says were formerly part of a redundant farm, situated on Wybunbury Lane.
5. The location is within Open Countryside, as defined by Policy PG 6 of the recently adopted *Cheshire East Local Plan Strategy 2010-2030* (CELPS). The policy limits development to defined, appropriate types but allows for a number of exceptions. Among these are limited infilling in villages or the infill of a small gap in an otherwise built up frontage elsewhere.
6. The location is clearly not a village as such but, as the submitted DAS calls it, part of a small cluster of houses, cottages and farms which form the nucleus of a sporadic group of buildings at a road junction within open countryside. Dwellings along Wybunbury Lane are generally sporadic, as the Council asserts, but the appeal site lies in the midst of a run of at least four adjacent dwellings. Whilst the space between several of the dwellings is fairly generous, the site is very close to The Byres, so that a new dwelling on it would appear as part of an existing group. Therefore, I consider that the proposal is at the conceptual margin of, but just sufficiently within, the term infill of a small gap in an otherwise built up frontage. In the circumstances, and given that scale, layout and appearance would remain within the Council's future control, there would be no undue harm to the character and appearance of the countryside location.
7. The situation is not directly comparable to either of the examples of dwellings allowed by the Council and on appeal cited<sup>1</sup> by the appellants, but these do serve to demonstrate the variety of locational circumstances which arise in rural areas. I have taken account of the Parish Council's objection but the particular locational attributes of this site may not be replicated elsewhere, including within Wybunbury Lane itself.
8. Both the parties refer to the *North West Sustainability Checklist*, an established methodology for the assessment of walking distance to a range of local services which is intended to be of help in local planning and assessment of proposals. The parties differ in their estimate of precise distances in this case but, taking the Council's more conservative assessment, many of the relevant services and facilities are within 1 – 2 kilometres of the site. This reflects the proximity of the location to several large villages and suburbs and the substantial market town of Nantwich. Therefore, although the location, as with most rural places, would almost certainly require use of a vehicle, it is not unduly remote.

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<sup>1</sup> Quintons Orchard, Hatherton, LPA ref 16/4101N and Festival Avenue, Buerton, Appeal ref APP/R0660/W/14/3002213

9. The *National Planning Policy Framework* (the Framework) states, at paragraph 55, that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, citing the example of where development in one village may support services in a nearby village. As reasoned above, the location would provide for a contribution to the vitality of the local community and is not seriously isolated in terms of paragraph 55.
10. I attach little positive weight to the appellants' argument that the proposed dwelling would accommodate their daughter, as personal circumstances rarely weigh heavily as planning considerations and no mechanism is proposed to ensure that the dwelling would be occupied by a local person in perpetuity. Nevertheless, some limited economic and social benefit would be derived from the small contribution to the supply of housing and to the local economy. I also attach little weight to the argument that the dwelling would embody highly sustainable construction and energy efficiency. No truly exceptional sustainable design and construction measures are referred to and, in any case, would be difficult to secure through an outline consent.
11. Overall, therefore, the proposed development would provide a suitable location for a dwelling, having regard to the character and appearance of the rural location and its proximity and access to services. As such, there would be no substantial conflict with CELPS Policy PG 6, with the development plan as a whole, or with the Framework and there are no material considerations which indicate that permission should be refused.

### **Conditions**

12. I have considered, and amended where necessary, the Council's suggested conditions in the light of national planning policy and guidance<sup>2</sup> and for succinctness and clarity. I have imposed the usual commencement conditions applicable to outline permissions, including specification of the reserved matters. In the interests of proper planning and for the avoidance of doubt, I have specified the approved plan with regard to access to the development, which is not a reserved matter. Most of the conditions suggested by the Council are unnecessary as this is an outline application and they concern issues more appropriately dealt with in determining reserved matters. Nevertheless, I have made clear in condition 1 that appearance should include ground and floor levels and landscaping details should include boundary treatments and hard surfacing materials. In this case, I have not been given any evidence to demonstrate the exceptional circumstances required to justify removing permitted development rights at this outline stage. Although "informatives" are not added to conditions in appeal decisions, the appellants should be aware of these from the Council's evidence.

### **Conclusion**

13. For the reasons set out above, the appeal should be allowed.

*Nicholas Taylor*

INSPECTOR

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<sup>2</sup> *National Planning Policy Framework* (paragraphs 203 and 206) and *Planning Practice Guidance* (Use of Conditions)