

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **28<sup>TH</sup> JUNE 2017**

**REPORT BY:** **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

**SUBJECT:** **APPEAL BY MR. & MRS J. CLARE AGAINST THE  
DECISION OF FLINTSHIRE COUNTY COUNCIL TO  
REFUSE OUTLINE PLANNING PERMISSION FOR  
THE ERECTION OF A DWELLING AT LAND AT  
WESTACRES, BERTHEN ROAD, LIXWM –  
DISMISSED.**

**1.00 APPLICATION NUMBER**

1.01 055951

**2.00 APPLICANT**

2.01 Mr. & Mrs J. Clare

**3.00 SITE**

3.01 Westacres,  
Berthen Road,  
Lixwm, CH8 8LT

**4.00 APPLICATION VALID DATE**

4.01 5<sup>th</sup> September 2016

**5.00 PURPOSE OF REPORT**

5.01 To inform Members of the Inspector's decision into the refusal to grant outline planning permission for the erection of one dwelling and formation of an access at Westacres, Berthen Road, Lixwm, CH8 8LT. The application was refused by delegated powers, with the appeal dealt with by way of a hearing and was **DISMISSED**. The Inspector was Iwan Lloyd.

## **6.00 REPORT**

### **6.01 Background**

Members may recall that this application was refused on 30<sup>th</sup> November 2016 by delegated powers on the basis that the proposal represented unjustified non-essential development in the open countryside, restricting the community's access for local needs housing in the area.

### **6.02 Issue**

The Inspector considered that the main issue to be whether there were other material considerations sufficient to outweigh any conflict with local and national planning policies that seek to strictly control new residential development outside settlement boundaries.

### **6.03 Principle of Development**

The appeal site is the garden on the northern side of the property presently comprising an orchard bounded by hedgerows. The garden land comprises an infill site between Westacres and a row of 4 properties to the north. The site is situated in the countryside to the north-east of Lixwm.

6.04 The site is outside the settlement boundary as defined by the Flintshire Unitary Development (UDP). UDP Policies STR1, GEN3, HSG4 and HSG5 essentially restrict development outside development boundaries. Policy GEN3 lists the type of development which may be considered acceptable in the countryside. Amongst other examples listed under this policy are, infilling (Policy HSG5), and essential worker housing (Policy HSG4).

6.05 STR1 is a strategic policy and generally requires new development to be located within settlement boundaries and allocations and suitable brownfield sites. The site would be regarded as previously developed land as set out in Planning Policy Wales Edition 9 (PPW). Suitable brownfield in the context of Policy STR1 is not explained, although the policy aim is to ensure the development of sustainable communities, high quality design and minimise adverse impacts on the physical, social and economic environment of the area.

6.06 This case does not relate to an essential farm or forestry worker under Policy HSG4. Policy HSG5 relates to infill development provided it is for a proven local need. There is no case which fulfils the particular criteria of the policy in relation to local need. The physical criteria of infilling outside settlement boundaries within a clearly identifiable group and continuous developed frontage are met.

6.07 The site is some 1 km north-east of Lixwm where a range of services and facilities are situated. However, the Council noted that there is an absence of a regular bus route from nearby the site and the road network lack footways or verges and are unlit. These matters limit

the opportunities for reaching the village by means other than the private car. The Council took the view that the location of the site is unsustainable having regard to the sustainability principles and objectives set out in PPW.

- 6.08 PPW recognises that for most rural areas the opportunities for reducing car use and increasing the use of walking, cycling and public transport are more limited than in urban areas. However, the emphasis in rural areas is that the majority of new development should be located in those settlements which have relatively good accessibility by non-car modes when compared to the rural area as a whole. PPW advocates that local authorities should designate and identify the preferred locations for most new development in rural areas in particular clusters of smaller settlements where a functional linkage can be demonstrated. In line with this the UDP provides strictly controlled development opportunities for housing in rural areas for local needs. Policy HSG5 and HSG3 in certain category settlements provides the Council's preferred strategic approach for the dispersal and provision of housing opportunities in rural areas.
- 6.09 PPW sets out that the priorities for rural areas are to secure sustainable rural communities with access to affordable housing and high quality public services. In this regard, the site is not within or reasonably close to a settlement or service centre and is not sustainable being poorly serviced by public transport choices and the provision of services and facilities. In addition, there is no case made out which fulfils the particular criteria of Policy HSG5 in relation to local need. The proposal does not therefore accord with the development plan and national planning policies.
- 6.10 However, the appellants put forward a number of material considerations to be weighed in the overall planning balance. These relate to housing land supply, the preference for building on previously developed land, and that there is no identifiable harm to the character and appearance of the area. Further, the proposal would meet the wider social and economic objectives of PPW which would assist the village services of Lixwm.
- 6.11 The appeal site garden is previously developed land and is seen as a gap in an otherwise contained frontage. There are no significant landscape implications or issues in relation to encroachment of the countryside. The fruit trees on the site are not protected and do not necessarily form a landscape feature in themselves.. The Council accepts that the physical attributes of the site accords with infilling and therefore it cannot be regarded as a development which would urbanise the rural setting. Furthermore, if the proposal is regarded as 'shoehorning development' between houses then this would also fail the physical attributes of infilling as set out in Policy HSG5, although that is not an identified concern in the Council's decision. The Inspector did not regard that the proposal would harm the

character and appearance of the area and the surrounding countryside.

- 6.12 In relation to housing land supply, as the UDP is outside of its plan period the Council is unable to demonstrate a 5-year housing land supply as set out in paragraphs 8.1, 8.2 and 6.2 of TAN1. Where the UDP is outside its plan period the local planning authority has been unable to undertake a current study of its housing supply. As a result, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with the development plan and national planning policies.
- 6.13 The Council indicated that the contribution is negligible in the context of meeting the housing land supply shortfall. The Inspector had no reason to disagree, but a small contribution is nonetheless an increase in the supply which is evidently needed.

## **7.00 CONCLUSION**

- 7.01 The Inspector identified no distinguishable harm to the character and appearance of the area and the surrounding countryside. The site is previously developed land, and there is a substantial shortfall in housing land supply and this proposal would increase that supply by one dwelling.
- 7.02 However, in the Inspector's view the site is not sustainable in terms of its location and fails to accord with the development plan and national planning policies. It would provide some limited support to local services but that would equally be the case if the site was located within or adjoining the settlement where there would be relatively good accessibility by non-car modes when compared to the rural area as a whole.
- 7.03 The potential considerable weight which may be given to the lack of housing land supply does not occur in this case given that the proposal fails to comply with the development plan and national planning policies. The presumption in favour of sustainable development does not apply having regard to the key principles and key policy objectives of sustainable development. Whilst the site may be regarded as previously developed land, local planning policy STR1 does not support the development of unsuitable brownfield sites.
- 7.04 The Inspector concluded that other material considerations are insufficient to outweigh the identified conflict with local and national planning policies that seek to strictly control new residential development outside settlement boundaries. Therefore the Inspector **DISMISSED** the appeal.

**LIST OF BACKGROUND DOCUMENTS**

Planning Application & Supporting Documents

National & Local Planning Policy

Responses to Consultation

Responses to Publicity

**Contact Officer:** Alan Wells  
**Telephone:** (01352) 703255  
**Email:** [alan.wells@flintshire.gov.uk](mailto:alan.wells@flintshire.gov.uk)