



Appeal Decision

Site visit made on 13 August 2020

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2020

Appeal Ref: APP/A4710/W/20/3251675

Bearnshaw Tower Barns, Carr Road, Todmorden, Calderdale OL14 7ES

- 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 Krell Estates against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 20/00148/FUL, dated 7 February 2020, was refused by notice dated 8 April 2020.
 - The development proposed is removal of existing building and construction of two dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Krell Estates against Calderdale Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The structural survey provided with the appeal submission shows that the buildings have now deteriorated to such an extent that they could not be converted. Even if planning permission ref 17/00549 is extant, from the information provided it appears that it is no longer capable of being implemented. I have therefore given this permission limited weight in determining this appeal.

Main Issue

4. The main issue is whether the proposed development would provide a suitable location for housing, having particular regard to the character of the countryside.

Reasons

5. The appeal site is in an upland location, and the derelict barns are the first buildings to be reached along Carr Road on the descent from the open moorland above. The barns are adjacent to Bearnshaw Tower Cottage, which presumably was the farmhouse which they originally served, and some associated outbuildings. There are no other buildings in close proximity to the appeal site, and it is necessary to travel some distance

along Carr Road before reaching the nearest houses, on the approach down to the small settlements of Portsmouth and Cornholme.

6. Despite its proximity to Bearnshaw Tower Cottage, the appeal site is within an isolated location in the countryside, and is physically and functionally separate from any settlements. The proposal to construct two dwellings is not consistent, therefore, with the advice in paragraph 79 of the National Planning Policy Framework (the Framework), which advises that isolated homes in the countryside should be avoided. As the site is isolated, comments made in the Braintree judgement regarding the contribution of new dwellings to the vitality of rural communities, are not applicable to this case.
7. The appeal site is within the 'area around Todmorden', as identified in the Replacement Calderdale Unitary Development Plan 2006 (UDP). This area is recognised in paragraph 11.30 as having special characteristics, relating to agriculture, wildlife, nature conservation and recreation. Policy NE8 restricts development in the area around Todmorden in order to prevent the spread of existing settlements and to protect the countryside for its own sake. The current proposal to demolish and replace the buildings with two dwellings, does not comply with any of the exemptions set out in this policy. This differs from the previous permission for the conversion of the buildings, which was consistent with criteria ii. of Policy NE8, and with guidance in the Framework.
8. The buildings are now becoming very overgrown and increasingly becoming part of the landscape. Whilst somewhat dilapidated, their visual appearance does not justify their demolition and replacement with new dwellings, even if the design of the proposal in relation to its immediate setting and the Special Landscape Area, as identified in UDP Policy NE12, would be acceptable.
9. I conclude that the proposal would not provide a suitable site for housing having particular regard to the character of the countryside. It would fail to comply with UDP Policy NE8, which seeks to protect the countryside. Given the scale of the proposal I consider that it would cause moderate harm to the provisions of that policy. In addition, moderate harm would result from the conflict with Framework paragraph 79.

Other Matters

10. Paragraph 103 of the Framework promotes the use of sustainable transport, and whilst it recognises that opportunities to maximise sustainable travel will vary between urban and rural areas, the site is not within easy access of local services or facilities. To reach the nearest settlement it is necessary to travel for a considerable distance along a long and narrow lane, which is steep in parts, with no pavement or lighting. Whilst the proposed development would not be significant in scale, there would be very limited opportunities for promoting sustainable transport by any modes, so it is likely that the majority of journeys would be made by private car, contrary to the aims of the Framework.
11. I recognise that planning permission has previously been granted for two dwellings in this location, but the previous scheme was consistent with

policies which allow for the reuse of rural buildings, regardless of locational sustainability.

12. I note the appellant's comments that the construction of new buildings could give greater opportunities for higher standards of insulation and a lower carbon footprint than the conversion of the existing buildings. This weighs modestly in favour of the scheme.

Planning Balance and Conclusion

13. The proposal does not comply with the development plan. However, the Council has confirmed that it has a housing land supply of just two years. This represents a significant shortfall which must be addressed. Given this situation, I must consider the proposal against Paragraph 11 (d) of the Framework. This means that the development plan policies which are the most important for determining the application must be regarded as being out of date.
14. The amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. Being out of date does not mean that a policy carries no weight. UDP Policy NE8 was adopted prior to the publication of the Framework and is more restrictive in some respects. However, its overall aim of protecting the countryside, having regard to the particular characteristics of this area, is consistent with the objective of recognising the intrinsic character and beauty of the countryside, as set out in paragraph 170 of the Framework. Although 'out of date' due to the Council's land supply situation Policy NE8 still carries significant weight and I have found this scheme to be moderately harmful to its provisions.
15. Paragraph 8 of the Framework outlines the overarching interdependent objectives for planning to achieve sustainable development: social, economic and environmental. The benefit of constructing new homes in an area where there is a significant shortfall is recognised. However, two units would make a small contribution, with this modest social benefit being tempered by the lack of accessibility to local services and facilities. There would be modest short term economic benefits to the construction industry.
16. Harm would be caused in relation to the environmental objective through the construction of new dwellings in an isolated location, and the failure to protect the intrinsic character and beauty of the countryside. In addition, occupiers of the proposed development would be heavily reliant on the private car. These harms would be significant, and as a result, the environmental role of sustainable development would not be achieved.
17. The proposal would not cause harm to the Special Landscape Area and would be acceptable in relation to highways, flood risk and the living conditions of neighbouring properties. The site is in a bat alert area, but appropriate mitigation measures could be secured through a condition. These matters are neutral in the planning balance.
18. Whilst I have found modest social and economic benefits, even taken together these benefits would not outweigh the environmental concerns identified. Therefore, when assessed against the policies in the

Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits and the presumption in favour of sustainable development does not apply.

19. For the reasons given, I conclude that the conflict with the development plan is not outweighed by other considerations, including the Framework. The appeal should therefore fail.

R Morgan

INSPECTOR