



Appeal Decision

Site visit made on 20 October 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2020

Appeal Ref: APP/A4710/W/20/3255602

Land north of East Lee Lane, Halifax Road, Todmorden

- 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 S Greenwood against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/01436/OUT, dated 10 December 2019, was refused by notice dated 11 February 2020.
 - The development proposed is described as "*residential development of up to 5 dwellings (outline)*".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are, firstly, whether the appeal site is in a suitable location for residential development having regard to local and national planning policy and, secondly, the effect of the development on the character and appearance of the area.

Procedural Matter

3. The application is in outline with all matters reserved for future consideration. Drawings showing an indicative layout were submitted with the application, and I have had regard to these in determining this appeal.

Reasons

4. The Council is unable to demonstrate a deliverable 5 year supply of housing sites as required by the National Planning Policy Framework ('the Framework'). In this regard, it can only demonstrate a 2 year supply against the 5 year requirement, which is a significant shortfall. In these circumstances Paragraph 11 of the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. I return to this matter in my Overall Balance and Conclusion, below.

Suitable location for residential development

5. The appeal site consists of an area of undeveloped land that is surrounded by mature woodland. It is not within any defined settlement boundary and is therefore in the countryside for planning policy purposes.

6. Saved Policy NE 8 of the Replacement Calderdale Unitary Development Plan ('UDP') (2006) sets out what is considered to be appropriate development in the 'Area Around Todmorden', which encompasses the appeal site. This policy states that development in this area will not be permitted unless it meets one of a number of exceptions. The development would not accord with any of these exceptions and would therefore be contrary to Policy NE 8. However, this policy seeks to apply similar restrictions to development in the countryside to those that would ordinarily apply within the Green Belt. Indeed, fewer exceptions are identified in Policy NE 8 than at paragraphs 145-146 of the Framework, and it is therefore more restrictive than Green Belt policy in some respects. There is no basis within the Framework for applying such restrictions to development in the countryside, and this policy stance is therefore out of step with current government guidance. I therefore attach only limited weight to the conflict with Policy NE 8. Whilst the Council assert that this policy also seeks to protect the visual amenity of the countryside, that is only the case in relation to development which is first considered to be 'appropriate'.
7. It is also asserted that the development would create isolated new homes in the countryside for the purposes of paragraph 79 of the Framework. However, the appeal site is only a short distance from existing houses, commercial properties, and public transport connections along Halifax Road. Accordingly, I do not consider it to be in an isolated location.
8. Notwithstanding this, the location of the appeal site is contrary to Policy NE 8 of the Replacement Calderdale UDP (2006). I return to this matter in my Overall Balance and Conclusion, below.
9. Separately, the Council's Decision Notice also refers to UDP Policy NE 9, which relates to development within settlements in the Area Around Todmorden. However, the appeal site is not within a settlement and this policy is therefore not directly relevant to the proposal.

Character and appearance

10. The appeal site is near to existing commercial and residential properties along Halifax Road. However, the character of the area changes significantly on this side of the railway line, and there is little intervisibility between the appeal site and those properties. In this regard, East Lee Lane has a distinct rural character and is flanked by woodland and hillsides.
11. The appeal site itself has a natural, undeveloped appearance and is set against a backdrop of mature trees on rising ground. The development would introduce up to 5 dwellings onto the site that would largely be seen in the context of the surrounding woodland and countryside. It would appear as a visually isolated intrusion into the countryside, and the site's undeveloped appearance would also be lost. In this regard, the development would significantly alter the rural character of this part of East Lee Lane, and in my view, it would contrast sharply with its surroundings. Moreover, whilst all matters are reserved for future consideration, the development would inevitably be tightly spaced and positioned close to the road given the shape of the site. This would result in an overly dense and urban form of development that would add to its incongruity. Whilst the development would be screened in longer views by the surrounding woodland and hillsides, its localised impact would be significant in my view.

12. For the above reasons, I conclude that the development would significantly harm the character and appearance of the area. It would therefore be contrary to Policies NE 12 and BE 1 of the Replacement Calderdale UDP (2006). These policies seek to ensure, amongst other things, that new development respects local character, and conserves the visual quality of Special Landscape Areas. It would also be at odds with the Framework, which requires that development is sympathetic to local character and history, including the surrounding built environment and landscape setting.

Other Matters

13. The appellant states that the appeal site was previously used as a storage yard. However, at the time of my visit, it had an undeveloped character and was largely covered in vegetation. In this regard, the definition of 'previously developed land' given at Annex 2 of the Framework specifically excludes land where the remains of the permanent structure or fixed surface have blended into the landscape over time, as is the case here.
14. The development would not result in any overlooking or loss of privacy to nearby properties. However, that is an ordinary requirement for new development, and it does not weigh in favour of the proposal.

Overall Balance and Conclusion

15. As set out above, the development would significantly harm the character and appearance of the area, and it would be contrary to the development plan in this regard. Its location would also be contrary to UDP Policy NE 8, although for the reasons given above, I attach only limited weight to the conflict with this policy.
16. Set against this, the development would make a small contribution towards the deficient housing land supply position, in a relatively accessible location. It would also result in some economic benefits during the construction phase and through local expenditure by future residents. In view of the current shortfall in housing supply, I give these considerations moderate weight.
17. On balance however, and taking all matters into consideration, I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits. The material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
18. For the reasons given above I conclude that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR