



Appeal Decision

Site Visit made on 18 May 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 8th June 2021

Appeal Ref: APP/A4710/W/20/3259629

Rear of 12 Henshaw Road, Todmorden OL14 6QR

- 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 Mr A Deakin against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/01063/FUL, dated 4 September 2019, was refused by notice dated 24 August 2020.
 - The development proposed is a detached house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are;
 - (i) The effect of the proposed development on the setting of Henshaw Farm, a Grade II listed building, and;
 - (ii) The effect of the proposed development on highway safety.

Reasons

Setting of listed building

3. The appeal site comprises an irregular shaped piece of grassed land that contains a number of mature trees. It sits in an elevated and prominent position within a hillside to the rear of 12 Henshaw Road and adjacent to Henshaw Farm, which is a Grade II listed building.
4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 makes clear that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
5. On the basis of the evidence before me I consider the significance of Henshaw Farm to derive, to a considerable extent, from its age, materials and architectural features. In reaching this view I have had regard to the listing description which explains that it is an early example of a laithe house for this region. On my site visit I also noted that it is seen against the backdrop of an agricultural hillside and mature trees. I thereby consider this Pennine landscape setting to be a reminder of Henshaw Farm's former rural surroundings and agricultural function. As such this setting contributes to revealing and understanding the significance of this listed building.

6. The appellant argues that the whole of Todmorden is built in steeply sided valleys with properties rising above each other. It has also been put to me that the setting of Henshaw Farm is no longer isolated as Henshaw Road has been built up and developed over time. On my site visit I saw that there is a mixture of terrace and detached housing present along this highway. I also saw that the topography of the area is such that No 12 and the terrace row that it adjoins sit at a higher level than Henshaw Farm.
7. However, the majority of the properties on the northern side of Henshaw Road, including No 12 and Henshaw Farm, are seen against the backdrop of rising agricultural landscape and mature trees. Some of the terrace rows are also interspersed by woodland and areas of open land. The presence of these properties does therefore not alter the prevailing rural character and setting of the listed building.
8. The appeal site forms a part of this higher ground to the north and comprises open grazing land with groups of trees. Given these characteristics and its proximity to Henshaw Farm it clearly positively contributes to the rural setting of this listed building. However, the introduction of a dwelling in such a raised and prominent position would significantly erode the open rural landscape and character of this area. As a consequence, it would also fail to preserve the setting of the nearby listed building.
9. I consider the harm that I have identified above would, in the parlance of paragraph 196 of the National Planning Policy Framework (the Framework), be 'less than substantial'. It should be noted that less than substantial harm in this context does not equate to a less than substantial planning objection.
10. Paragraphs 193 and 194 of the Framework explain that great weight should be given to the conservation of a designated heritage asset, and any harm, including to setting, requires clear and convincing justification. No such justification has been provided. In paragraph 196 it goes on to state that where a proposal would lead to less than substantial harm to the significance of such an asset that harm should be weighed against the proposal's public benefits. However, no public benefits associated with the proposal have been put forward to be weighed against this harm.
11. I therefore find that the proposed development would have a materially harmful effect on the setting of Henshaw Farm, a Grade II listed building. As such it would conflict with Policy BE15 of the Replacement Calderdale Unitary Development Plan 2006 (UDP), which amongst other matters, seeks to ensure that the siting, scale, design and nature of new development would not harm the setting of a listed building. It would also conflict with paragraphs 193, 194 and 196 of the Framework.

Highway Safety

12. No 12 and its adjoining terrace row sit at a higher level than Henshaw Road. The differences of levels in this area has resulted in stone retaining walls being provided to the front of this terrace row, with raised garden land above them. On my site visit I noted the presence of hedgerows and other structures on this neighbouring terrace row's raised front garden areas. I also saw that a section of timber fencing and some shrubbery are located on No 12's raised garden and run along the shared boundary with the appeal site, in close proximity to No 12's front retaining wall.

13. No substantive evidence regarding traffic flows, accidents, or on-street car parking levels has been provided by either main party. At the time of my mid-morning site visit I saw that the Henshaw Road highway was lightly trafficked, with some on street car parking.
14. Nonetheless, I recognise that this may have been a snapshot in time and I am mindful of the representations that have been received from local residents, and the Council's highway engineer which suggest that on-street car parking already causes significant problems in regards to accessibility and manoeuvrability along this relatively narrow road. I also understand that this situation would be likely to be intensified in the evenings and at weekends, when residents are more likely to be at home, and understandably seek to park at or near their place of residence.
15. The appellant argues that a 2 metre X distance is appropriate in lightly trafficked areas and that on lower order roads a visibility line of 23 metres is acceptable. He states that this reflects the approach in "Manual for Streets" (Department for Transport & DCLG, 2007) (MfS). I am mindful of this advice, and I have no reason to question the suggested 23 metre stopping sight distance. However, technical guidance contained within the MfS also recommends (at paragraph 7.7.6) that an X distance of 2.4m should be applied in most built up situations as it represents a reasonable distance between the front of the car and the driver's eye. In my view, that would be the appropriate basis for the assessment of visibility in this location.
16. There is little evidence before me to clearly illustrate the differences in levels between the ground level of the proposed access road and No 12's raised garden land and retaining wall. In the absence of this information I am unable to be certain that these are not above driver eye height and that the excavation required for the proposed access would not result in a visibility splay being obscured, when exiting the site to the left, by their height and scale. There is also no evidence before me to suggest that the appellant has control over the removal of the existing timber fencing and shrubbery on No 12's raised garden or that agreement for such removal would be achieved. These would cause further obstruction to driver's visibility levels.
17. Given that there is little off street car parking provision for neighbouring properties, I am also concerned that parked cars along this stretch of the highway, in very close proximity to the proposed access, would further impede visibility when trying to enter or leave the site. This danger would be exacerbated by the appeal site's location on a slight bend and incline along this narrow section of Henshaw Road, and the raised vegetation and structures present on other neighbouring land.
18. On the basis of the evidence before me, and in light of the combination of factors above, I therefore consider that adequate sightlines would not be achievable over the proposed site access and Henshaw Road. The fact that traffic is light on Henshaw Road does not necessarily reduce the risk of collisions and I do not consider this to overcome my highway safety concerns.
19. I therefore find that the proposed development would have a significantly harmful effect on highway safety. As a result, it would conflict with UDP Policy BE5, which amongst other matters seeks to ensure the safe and free flow of traffic in the interests of highway safety.

Other Matters

20. My attention has been drawn to previous planning applications (Ref 03/00427 & 04/00483) and a previous appeal decision for a dwelling on the site. I am informed that whilst these related to a three-storey building, the Council's highway engineers did not raise any objections to them and that they were not refused or dismissed on highway grounds. However, I have not been provided with the full details of these cases so cannot be certain that their circumstances are similar to those of the appeal proposal. I have, in any case, determined the appeal based on its own planning merits.
21. It has also been put to me that the appeal site has been allocated for primary housing for around 25 years. Nonetheless, this does not outweigh or overcome the harm that I have identified above.

Conclusion

22. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should therefore be dismissed.

Mark Caine

INSPECTOR