



Appeal Decision

Site Visit made on 28 September 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2021

Appeal Ref: APP/A4710/W/21/3277236

Former site of the Mount Olivet Chapel / Naze Bottom, Hebden Bridge

- 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 Michael Bolton against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 20/00589/OUT, dated 27 May 2020, was refused by notice dated 23 December 2020.
 - The development proposed is a residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the submission of the appeal a new Framework was published¹. I have taken it and any comments made thereon into account.
3. The application was submitted in outline with all matters reserved. I have determined the appeal on this basis.

Main Issues

4. The main issues are as follows:
 - whether the appeal site would be an appropriate location for housing having regard to the effect on the character and appearance of the area and the accessibility to services and facilities; and
 - the effect of the proposed development on ecology, including protected species.

Reasons

Appropriate Location

5. The appeal site lies on the site of the former Mount Olivet Chapel which, based on the information before me, was demolished in 1946. The site is on a wooded hillside that slopes steeply upwards from the narrow valley floor to the north of the A646.
6. The appeal site lies in the countryside in the Area Around Todmorden as defined in the UDP². The supporting text for Policy NE8 of the UDP states that

¹ National Planning Policy Framework 2021

² Replacement Calderdale Unitary Development Plan 2006

in this area, it is appropriate that policies should seek to prohibit some forms of built development to prevent the spread of existing settlements. The policy restricts development in this area to a number of limited circumstances. No evidence has been submitted to demonstrate that the proposed development would satisfy any of the circumstances identified in Policy NE8.

7. Paragraph 80 of the Framework seeks to avoid the development of isolated homes in the countryside unless one of the five listed circumstances apply. In this context, the word "isolated" would be taken to mean a dwelling that is physically separate or remote from a settlement. The Framework does not define what constitutes a settlement for these purposes, nor does it specify a minimum number of dwellings or population for a settlement.
8. Whilst the surrounding area is not free from development, the nearby properties do not in my judgement form part of a recognised settlement and are surrounded by open countryside. The requirements of paragraph 80 are therefore relevant. None of the five listed circumstances for such development in the open countryside would apply to the proposed development.
9. Although I am considering the plans on the basis that they have been submitted for indicative purposes given that all matters are reserved, the application form states that the proposed dwelling would be 4+ bedrooms and the appellant's proposed floor plans and image show a sizeable three storey dwelling. The appeal site once contained quite an imposing chapel and the appellant states that the proposed dwelling would be less imposing and its scale, form and massing would be proportionate to that of the original chapel. However, the chapel was removed many years ago. Although some remnants of boundary walls remain, vegetation growth is apparent and it is clear that the appeal site has not contained built development for a considerable period of time.
10. Although the appeal site is relatively close to the small cluster of buildings to the east, a dwelling at this site would appear visually separate from them. There are examples of scattered buildings on the valley sides in the wider area. However, a dwelling in this location would extend built development further into the open countryside. The presence of cars, the laying out of a garden area and any boundary enclosures and the general domestic activities associated with a dwelling would further exacerbate the urbanising effect. This would be markedly at odds with the rural landscape character of the appeal site. The appeal site lies in an elevated and prominent location and the proposed development would be clearly visible in the wider area including from parts of the Pennine Bridleway and Pennine Way, parts of the canal path to the south and in views from the opposite side of the valley. The appellant's intention to use locally sourced construction materials would not adequately mitigate this harm.
11. The appeal site is located to the north of the A646 between the two settlements of Eastwood and Charlestown and is accessed via a steep single-track road known as Jumble Hole Road. These settlements have very limited services. Bus services run along the A646. It would be theoretically possible for future occupiers to walk or cycle to the A646, which is not too far in distance terms. However, the narrow and unlit nature of Jumble Hole Road together with the steep incline in places would be disincentives to journeying even short distances on foot or by bicycle, especially during darker winter months or in

inclement weather. Furthermore, considering the distance and the nature of the roads between the appeal site and larger settlements, it seems even less likely that journeys would be made by cycling or walking.

12. On this basis, I conclude that future occupiers of the proposed dwelling would be heavily reliant on a car to access day to day services. The proposed development would not therefore support the locational aims of the UDP or the Framework to avoid unsustainable patterns of development.
13. For the reasons given, the proposed development would not be an appropriate location for housing due to the effect on the character and appearance of the area and the lack of accessibility to services and facilities.
14. Consequently, the proposed development would conflict with Policies GP2, BE5 and NE8 of the UDP which seek to ensure that, amongst other matters, patterns of development are delivered that reduce travel demand and protect the countryside, that highways access provides for safe and efficient movements by pedestrians, vehicles and cyclists, and that development in the Area Around Todmorden is limited to protect the countryside. The proposed development would also conflict with Policy BE1 of the UDP which requires development to make a positive contribution to the quality of the existing environment, and Policy NE12 of the UDP which states that within Special Landscape Areas development which would adversely affect landscape quality will not be permitted.
15. In terms of the Framework, the proposed development would conflict with paragraph 80 as it would not satisfy the exceptional circumstances identified for isolated homes in the countryside, nor would it support the wider aims of promoting sustainable transport in section 9. It would also conflict with the design objectives set out in section 12 and the objectives for conserving and enhancing the natural environment set out in section 15 which, amongst other matters, requires decisions to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and to recognise the intrinsic character and beauty of the countryside.

Ecology

16. Refusal reason three on the Council's decision notice states that insufficient information was submitted in order to fully assess the application, in particular the lack of an ecological impact assessment. The appellant has submitted two reports as part of the appeal documentation – a Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey February 2021 (the PEA) and a Bat Presence Survey Report June 2021.
17. The Bat Presence Survey Report records that the appeal site is used by only a small number of bats and the woodland areas to the north and south are the more used commuting and foraging areas. It concludes that bat roosts are unlikely to be present. The Bat Presence Survey Report makes a number of recommendations for mitigation and enhancement measures.
18. Given that the surveys indicate low levels of bat activity across the appeal site, the impact of the proposed development, with the recommended mitigation, would be low and would be unlikely to affect the favourable conservation status of the species in the local area. I am satisfied that conditions could be used to secure the recommended mitigation covering precautionary actions and lighting

as well as the recommended enhancement measures. In so far as bats are concerned therefore, I find no conflict with section 15 of the Framework or Policy NE16 of the UDP which seeks to protect legally protected species from development that would harm them or their habitats.

19. The PEA survey was undertaken in February 2021, which is outside of the optimal survey season. A number of the photographs included in the PEA show snow on the ground. The PEA identifies the potential for the proposed development to impact on the nearby Local Wildlife Site and deciduous woodland, a priority habitat. It states that there is not expected to be any direct impact on nesting birds due to the lack of suitable habitat on the appeal site, however there is potential for birds within the adjacent woodland to be disturbed. It also states that the site is of limited value to reptiles, badgers, water voles, amphibians and otters but habitats for hedgehogs would be lost. Further surveys were recommended for bats, which have been reported in the Bat Presence Survey Report.
20. The mitigation and enhancement measures identified could be secured by conditions. Whilst no specific recommendations are made for the loss of habitat for hedgehog, the enhancement measures would facilitate commuting routes and enable access to other nearby areas for foraging.
21. Whilst the appellant argues that the surveys undertaken are sufficient to fully understand the impact of the development on biodiversity interests, I am not convinced that this is the case given that the PEA survey was not undertaken during the optimal plant growing season which would have provided further detailed information on the habitat composition and the botanical interest of the appeal site and therefore what mitigation would be appropriate. In addition, the PEA identifies that there are five ponds within a 500m radius of the appeal site. No surveys appear to have been carried out on these ponds. The PEA states that, due to the lack of suitable terrestrial habitat, amphibians are unlikely to be found on the appeal site. However, given the concerns about the survey period together with the presence of nearby ponds, I am not satisfied that there is sufficient information to conclude that amphibians are not present.
22. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Surveys should only be required by condition in exceptional circumstances. In my view there are no exceptional circumstances in this case that would justify a condition requiring further survey work.
23. Given the concerns about the time period for the PEA survey and the resulting uncertainty about the effects of the proposed development on biodiversity interests including protected species, the proposed development would conflict with Policies NE15 and NE16 of the UDP and section 15 of the Framework which seek to ensure that development does not harm wildlife corridors; does not harm a protected species or its habitat or cause significant harm to biodiversity.

Other Matters

24. The evidence indicates that the Council cannot demonstrate a five year supply of deliverable housing sites. Footnote 8 of the Framework means that the 'presumption in favour of sustainable development' at paragraph 11d) of the Framework is relevant. As such, the most important policies should be deemed out of date and planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or 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.
25. I have not identified any relevant Framework policies protecting areas or assets of particular importance that would provide a clear reason for refusing the proposed development. I am therefore taken to the latter of the two aforementioned situations.
26. I have found that the appeal site would not be an appropriate location for housing due to the effect on the character and appearance of the area and the accessibility to services and facilities. This harm would be significant and long lasting. I therefore attach substantial weight to it, having regard to paragraph 80 of the Framework, the Framework's wider aims of promoting sustainable transport, its design objectives, and its objectives for conserving and enhancing the natural environment.
27. The Framework also emphasises the importance of delivery of housing. At the time of determining the application, the Council could demonstrate a two year housing supply. This is a large shortfall and therefore, although the proposed development would contribute one dwelling to the supply of housing in the area, I give this moderate weight in favour of the proposed development. There would also be social and economic benefits such as construction employment and additional residents supporting shops, businesses and community facilities in the area. However, the benefits stemming from one dwelling would be limited and as such have limited weight.

Balance and Conclusion

28. With the above in mind, the adverse impacts of granting a planning permission for the proposed development would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole. Therefore, it would not represent sustainable development for which the presumption in favour applies.
29. The proposed development would conflict with the development plan taken as a whole, as well as the Framework. There are no material considerations, including the approach of the Framework in regard to housing supply, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

F Wilkinson

INSPECTOR