



Appeal Decision

Site visit made on 11 July 2022

By KL Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th October 2022

Appeal Ref: APP/Z2315/W/22/3294063

Vacant building at Mount Pleasant, Mount Lane, Cliviger BB10 4TW

- 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 S Nixon of Propmax Developments Limited against the decision of Burnley Borough Council.
 - The application Ref COU/2021/0283, dated 17 May 2021, was refused by notice dated 8 September 2021.
 - The development proposed is the conversion of vacant building to 2-bedroom residential dwelling.
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Decision

1. The appeal is dismissed.

Applications for costs

2. The appeal is subject to an application for costs by Propmax Developments Limited against Burnley Borough Council. This is the subject of a separate decision.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area; and
 - Whether or not the location of the appeal proposal would contribute towards a sustainable pattern of development for the area.

Reasons

Character and Appearance

4. The appeal site consists of a small parcel of land on Mount Lane containing a disused stone built single storey building on the road frontage, an enclosed area of land to its rear and a wedge-shaped area of hard standing to its side. It lies between the small villages of Walk Mill and Overtown, outside the development boundaries of those villages as defined by Burnley's Local Plan (2018) (the Local Plan) Policy SP4 and is therefore, by definition in an open countryside location.
5. Houses are situated sporadically along Mount Lane as it winds up the hill from Walk Mill towards Overtown. Nevertheless, beyond the defined edges of the two villages, the lane is largely free of development and is rural in character. The appeal site is on a bend in the lane and is bounded by rolling open countryside. Despite one of the houses (Mount Cottage) on the lane being

opposite the appeal site there is a high degree of physical separation of the site from other built development in the wider area.

6. The proposal would involve the conversion of the building into a two bedroomed residential property. The area to the rear of the building would be used as a garden and parking would be provided on the hardstanding to the side which would be partially enclosed by a new stone wall.
7. The last known use of the building was as a garage. This has long since ceased and the building has fallen into disrepair. Evidence has been provided that a building on the site has been in existence for a considerable length of time and was connected with Mount Cottage opposite. However, any historical connection that the appeal building had with Mount Cottage has long since been lost. I have not been provided with any substantive evidence other than the reference to the existence of a chimney stack on the building suggests that it was originally built as a house. Whether or not this was the case is no longer relevant and planning permission is required to bring the building back into use.
8. The site is prominent when travelling in either direction along the lane. However, visibility of the site from medium to longer ranges is restricted by the topography of the surrounding countryside and intervening landscape features. The conversion of the building, together with the introduction of formalised hardstanding, boundary treatments around it, and domestic paraphernalia which would be inevitable in the garden would result in a domestication of the site which would be detrimental to the rural character of the area. The harm, however, would be confined to the immediate setting of the appeal site on Mount Lane.
9. Although views of the building would be limited to close range views from Mount Lane the development would, nevertheless, be prominent in its immediate countryside setting. It is not considered that the use of conditions would be sufficient to mitigate the adverse effects of the proposal in terms of this impact on its setting and, rather than enhancing its appearance, the development would be harmful to the character and appearance of the area surrounding the appeal site. Overall, therefore, the proposal would result in the domestication of the building which would intensify residential development in a location that is outside of a defined development boundary thereby causing harm to the character and appearance of the surrounding area in conflict with Policy SP4 of the Local Plan.
10. Openings on the front elevation of the building have been blocked up and at the time of my site visit no roof covering or floor was in place. The south elevation was in a visibly poor state of repair. A condition report submitted with the appeal concludes that the building is, overall, in a reasonable condition as it stands but highlights areas which would require rebuilding, particularly the roof and the south elevation, to bring the building into residential use.
11. Thus, alterations to the window and door openings are proposed and the building would need to be underpinned. A new concrete floor and internal cavity leaf or similar would be also required to carry the additional weight created from the proposed conversion. The south elevation would have new openings with bi-fold doors inserted.

12. Taken individually some of these works may not affect the appearance of the site or the surrounding area. However, when taken as a whole they would amount to works tantamount to rebuilding. Moreover, the enlargement of openings and the insertion of large bi-fold doors on the rear elevation of the property would be out of character for a building of this nature and would adversely affect its character and appearance, irrespective of the fact that they would only be visible from the rear of the appeal site. Furthermore, the introduction of formalised hardstanding to provide parking and the introduction of low stone boundary walls would further domesticate the appearance of the site adding to the harm that I have identified above. Overall, the works proposed would have a significant effect on the building's character and appearance and on that of the surrounding area.
13. For the reasons given, the proposed development would be harmful to the character and appearance of the area surrounding the site in conflict with Local Plan Policies SP4, EMP6 and NE3 which, amongst other things seek to ensure that development does not adversely affect the character, rural setting and appearance of the local landscape.
14. I acknowledge that there is no policy requirement to submit a structural report with a planning application. However, Local Plan Policy EMP6 is clear that in order to be acceptable the building must be structurally sound as well as being capable of conversion. I have not been provided with any substantive evidence to support this, and whilst being capable of conversion and in a sound condition as it stands, I am not persuaded that the structure is sound enough to bear the loads which would be required to enable its conversion to residential use.
15. I also note that the appellant sought advice from a firm of Chartered Surveyors regarding the submission of structural survey and also reviewed other planning applications to determine the level of detail that had been submitted in their support. Whilst this may be the case, the submitted details in this instance, to my mind, are not sufficient in their assertions that the building is structurally capable of conversion and that significant rebuilding would not be required.
16. The appellant cites substantial improvements to the appearance of the site and the long-term retention of the building through its conversion. However, this is not dependent on the development before me and in itself is not a reason to allow development which would be otherwise be unacceptable in planning terms.

Location

17. Local Plan Policy SP1 sets out the Council's strategic aim to promote sustainable development. The Council's Statement of Case acknowledges that reference to this policy was omitted from the first reason for refusal.
18. Local Plan Policy SP4 sets out the Council's development strategy within its approach to strategic growth and distribution of development. Thus, within the open countryside it states that development is strictly controlled and the supporting text to which states that development in the open countryside will only be permitted where it is subject to its need to be in the location proposed and being of an appropriate scale and type. The supporting text also refers to a number of policies in the Local Plan as examples where, subject to compliance, development in the open countryside may be acceptable. Relevant to the case

before me is Local Plan Policy EMP6 which concerns the conversion of rural buildings.

19. Policy EMP6 sets out a number of criteria to which the conversion of rural buildings is considered acceptable. The development proposed being of an appropriate scale and type is one consideration (criteria f). It is not disputed that the building itself is small in scale therefore appropriate in that sense. However, the type of development being a new dwelling in the open countryside is the matter in dispute.
20. The settlements of Walk Mill and Overtown, closest to the appeal site, are classified in Local Plan Policy SP4 as small villages where their primary function is to provide residential accommodation and a basic range of services to the local community. These villages generally have reasonable public and private transport links to larger towns and villages.
21. However, the site lies beyond the development boundaries set for the villages and is therefore by definition, in an open countryside location. I agree that it is not isolated in the *Braintree*¹ sense but it, nevertheless, lies beyond the defined development boundary of the villages of Walk Mill and Overtown. It is therefore in the open countryside and lies well beyond the extent of those settlements. Consequently, the type of development, being a residential development in the open countryside would be one which is not appropriate for its location, contrary to the provisions of part 4 of Local Plan Policy SP4.
22. A continuous pavement leads uphill from the site to Overtown, where there is a sports field, but no other community facilities. The pavement leading downhill into Walk Mill is almost continuous but requires crossing the lane in one location. However, it is a not inconsiderable walk down (and therefore back up) to the limited facilities on offer in this settlement.
23. The nearest bus stop to appeal site is at the top of Mount Lane in Overtown and provides bus access into Burnley town centre and to other local towns. From the information before me, bus services appear to be provided on a reasonably regular basis throughout the day. It is, nevertheless, likely that, given that bus services serve only a limited range of locations and the uphill walk to the bus stop that future occupiers of the proposed dwelling would be more likely to use a private motor vehicle to access services. This is the least sustainable travel option.
24. The number of journeys generated would not be significant given the quantum of development. Nevertheless, it is likely that occupiers would be dependent to a significant extent on the private car for trips and this adds weight to my conclusion regarding locational unsuitability.
25. For the reasons given, the proposed development would not be of a type which is appropriate to its location and is therefore contrary to Policy EMP6 of the Local Plan. Although the appeal site does not lie in an isolated location in the Braintree sense of the definition, it is not, for reasons set out above, well related to settlements with services or facilities. Accordingly, the appeal site is not an appropriate location for housing, having had regard to the development plan and national planning policy. The principle of the proposed development would therefore be unacceptable, and there would be conflict with Local Plan

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Development Ltd [2017] EWHC 2743 (Admin) [2018] EWCA Civ 610.

policies SP1 and SP4 which, amongst other things, aims to encourage sustainable patterns of development.

Other Matters

26. The appellant has alleged that the Council has adopted an inconsistent approach to the application of Policy SP4 in relation to development outside development boundaries elsewhere within the Borough and has referred me to a number of other developments. However, I do not have the full details of those proposals before me. From what I have seen and read they do share similarities with the proposal before me. It would, however, appear from the Council's officer report for the Higher Gibfield Barn development that information had been submitted with that application which the Council felt demonstrated its structural suitability for conversion. This was a matter of planning judgement for the Council. I have, in any event, determined the appeal on the evidence before me and found that this not to be in this case. Furthermore, the existence of other developments in locations elsewhere which may present similarities to the situation before me is not a reason to allow otherwise unacceptable development or persuade me to the merits of the proposal.
27. I acknowledge that a detached garage has been built at Mount Cottage opposite. However, extensions and alterations to existing properties outside the defined boundaries of settlements are assessed against other policies in the Local Plan and therefore there no direct comparison can be made with the case before.
28. The development of an additional dwelling house would contribute to housing supply within the Borough. However, the contribution of one dwelling to the supply of housing would be limited. The occupation of one property would make contributions in economic and social terms to the local community. However, these benefits would be limited in their extent and would not outweigh the harm arising from development within the open countryside. These factors are not therefore sufficient to outweigh harm that I have identified above.
29. I acknowledge the appellant's apparent frustration at the Council's handling of the application. However, their administration of the application has no bearing on the planning merits of the appeal proposal before me.

Conclusion

30. There are no other material considerations, including the Framework and worthy of sufficient weight, that would warrant taking a decision otherwise than in accordance with the development plan taken as a whole. The appeal should therefore be dismissed.

KL Robbie

INSPECTOR