



Appeal Decision

Site visit made on 22 August 2023

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th September 2023

Appeal Ref: APP/A4170/W/22/3310702

Hollingworth Gate, Hollingworth Lane, Walsden, Lancs OL14 6QY.

- 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 Mrs V Kershaw against the decision of Calderdale Council.
 - The application Ref 21/00793/FUL dated 2 June 2021, was refused by notice dated 1 July 2022.
 - The development proposed is single storey detached residential dwelling with existing access, gate and driveway.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council made its decision on the application the subject of this appeal on the basis of the then adopted plan the *Replacement Calderdale Unitary Development Plan* (RCUDP). However, in the period during which this appeal has been in progress the *Calderdale Local Plan* (CLP) has been adopted. I must consider the appeal against this now adopted CLP and the policies of the RCUDP now carry no weight having been superseded and are no longer relevant.

Main Issues

3. The main issues in this case are whether:
 - the location of the proposed dwelling would be a sustainable one given the countryside setting;
 - the development would have an adverse impact on highway safety and would have a poor level of accessibility by sustainable travel modes;
 - the development would have an adverse impact on landscape setting and character and appearance.

Reasons

4. The appeal site sits at the southern end of Hollingworth Lane and immediately north of Hollingworth Gate, a two storey house which sits in an elevated position above the lane. The appeal site, although laid to grass does not form part of the curtilage of Hollingworth Gate (a certificate of lawful use having been refused in 2014 (ref 14/01211/191)) but has the benefit of planning permission for a stable block approved in 2015 (Reference 15/00860/FUL). This is still live by virtue of the footings having been constructed.

5. Under the appeal proposal the footings of the stable block would form the basis for the construction of a two bedroom, single storey dwelling. Access to it would be taken from the existing gateway onto Hollingworth Lane and an extensive area bounded by existing dry stone walling would become the garden and curtilage to the new property.

Whether the location is a sustainable one for housing in its countryside setting

6. Hollingworth Lane and the appeal site sit well outside the village of Walsden in open countryside and within the 'Area around Todmorden' in which development is subject to Policy GB2 of the recently adopted CLP.
7. It has been put to me that the site is within the settlement boundaries of Walsden (shown in Appendices A and B of the appellant's statement) but I can see no evidence of any such settlement or development boundaries in the Policies Map of the CLP or reference to such boundaries in the CLP policies. As the site is a considerable distance from the main part of Walsden the proposal falls to be considered under the *National Planning Policy Framework* (The Framework) policy regarding housing in the countryside and Policy GB2 of the CLP.
8. Paragraph 79 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. One additional house in this location separated from the village of Walsden would not be such a location. The Framework goes on in Paragraph 80 to explain the circumstances in which housing development would be acceptable in isolated locations in the countryside.
9. The Framework does not define the meaning of isolated and court decisions have determined that it is a matter of fact and degree for the decision maker to decide. Although the site is reasonably close to Walsden, Hollingworth Gate is one dwelling standing on its own towards the end of Hollingworth Lane, which is a no through road, and approximately one kilometre from any services on offer in Walsden. At this southern end of the lane there is a feeling of remoteness and very open, sparsely developed countryside.
10. In the circumstances I consider the site to be relatively isolated and none of the types of housing development acceptable in more isolated locations in the Framework at Paragraph 80 would apply to the appeal proposal. It cannot be considered a conversion or reuse of an existing disused building as nothing other than footings for the stable block exist on the site. Even if I were to conclude the site was not so isolated that paragraph 80 should apply, it is not one where a single small house would clearly contribute to supporting services and facilities in nearby settlements. In that respect the principle of creating an additional residential unit at Hollingworth Gate would be contrary to CLP policies and the Framework.
11. I have been referred to the predecessor policies to GB2 in the CLP namely NE8 and NE9 of the RCUDP and invited to conclude that the proposed development would be infilling within the village of Walsden and form part of the pocket of development along Hollingworth Lane. These two policies have now been amalgamated to form GB2 in the CLP and whilst GB2 does allow for infilling, this needs to be within settlements or on previously developed land. The land cannot be taken to be previously developed as no completed building exists there. As stated above there is no formal definition of settlement boundaries and therefore I must consider the case on the evidence before me. Development along the lane

mainly takes the form of clusters at the northern end closest to Walsden and at Salter Rake Gate but, even if I was to accept these clusters were part of Walsden, there is a significant gap between the houses around Salter Rake Gate and the appeal site at Hollingworth Gate. The development proposal in this context would certainly not be infilling.

12. Accordingly, the principle of this residential development in this open countryside location would be contrary to Policy GB2 and therefore not acceptable.

Highway safety and accessibility

13. The appeal site would be accessed off Hollingworth Lane and sits at what is the end of the section of lane that is publicly accessible by vehicles. The lane is an extremely narrow, single-track road with few passing places. Although it is used by hill walkers accessing the fells it has no footpath and no lighting along its length. Whilst it is true to say the lane is lightly trafficked and the road geometry is such that it would be difficult for traffic to speed, equally there is very little opportunity for road users to take avoiding action and therefore there would be some element of risk in terms of safety.
14. Moreover, whilst I acknowledge that the lane may provide a well-used leisure walking route this does not mean that it would provide a suitable route for sustainable means of travel by foot or by cycle year-round for the occupants of any new dwelling on the appeal site. The distances via the lane to Walsden and the railway station are around 1 kilometre and around 800 metres to the bus stops via the surfaced lane although it is accepted there may be shorter unsurfaced footpath routes to bus stops. It is almost inevitable that the occupants of a dwelling in this location would be heavily dependent on a private car for travel to shops, school, work and leisure destinations. I have been invited to conclude that rural dwellings are almost inevitably less accessible. However, this does not sit very convincingly with the appellant's assertion that the site is part of the settlement of Walsden.
15. Accordingly, I am not persuaded that the proposal would meet the requirements of Policy IM5 of the now adopted CLP which seeks to ensure development supports sustainable travel. The policy requires development to be ideally within 400 metres walk distance of bus stops or 750 metres of a railway station. Neither would apply in this case and as stated the route in any event is neither entirely safe nor conducive to use at all times.

Character and Appearance

16. The appeal site sits in a highly exposed position on the valley side in what has been designated as a Special Landscape Area (SLA). There are views in over an extensive area from the west and south-west and from the lane in the approach from the north although, as a result of the topography and being set into the hillside, the site would not be visible from the east.
17. Permission was granted for the single storey stable block to be timber clad with a roof of green Onduline sheeting, materials which clearly the Council considered acceptable and which do feature in the vicinity. Inasmuch as the proposal is for a single storey dwelling to the same footprint, scale and massing as the stable block and in the same materials it is unlikely that the built form of the dwelling itself could be construed to have any greater an impact on character and appearance than the stable block. It has been put to me that the materials would be inappropriate for a dwelling and, in response, the appellant did offer to switch the roofing material to slate. Whilst a condition could be imposed to achieve this, I am

not persuaded this would make the development acceptable in terms of character and appearance.

18. In two respects there would be impacts as a result of the building's use as a dwelling. First although the dwelling would be fitted with sliding barn doors across the principal window to the living area, with the dwelling in use there would be no way of controlling when the doors were shut. Thus, there would be the possibility of light pollution in a highly visible location on the valley side which would not have been the case to the same extent from a stable block. Secondly, as stated, the curtilage to the new dwelling would extend over an extensive area which currently appears not dissimilar to open hillside but which as a residential garden with domestic paraphernalia could result in a significant change in the character and appearance of the site in the SLA. I have been referred to the fact that, notwithstanding its legal status, the site has been used as a garden for 9 years. Nevertheless, in appearance it remains open, uncultivated, has no structures on it other than the footings for the stables and dry stone walling and largely appears as part of the surrounding landscape.
19. Again I acknowledge that these matters could be controlled to a degree through conditions which could restrict permitted development rights and require a landscaping scheme that reinforced the natural appearance and native planting indigenous to the SLA. However, in the light of my conclusions on the other main issues, the imposition of such conditions would not of themselves make the proposal acceptable.
20. Policy GB4 of the CLP requires that development should not adversely affect the scenic quality of the SLA and requires that a landscape impact assessment should set out how development protects and enhances the landscape. No such assessment has been provided and although I recognise the requirement for an assessment is a new one, the SLA policy GB4 and its objective to protect and enhance the SLA is very similar to that previously in the RCUDP and I am not persuaded that the appellant has demonstrated that there would be no impact on the SLA.

Other Matters

21. It has been put to me that the Council has a housing shortfall and given that context the proposal, even though only for one dwelling, would be important.
22. I note that the published *Housing Delivery Target* (HDT) results for Calderdale in 2021 (the latest available figures) show that in the preceding 3 years the Borough achieved only a 55% delivery rate i.e. below the 75% threshold trigger point for the 'tilted balance' set out in the Framework at Paragraph 11d). Whilst under the former RCUDP the housing policies would have been deemed out of date, the recently adopted CLP demonstrates how a 5 year housing supply will be delivered including making up the recent under-delivery. The conclusion is that, at the time leading up to the adoption of the CLP in 2023, there was a 5.9 year housing supply, a position which clearly the Inspector examining the Local Plan agreed with in finding the plan to be sound.
23. As such the Framework's 'tilted balance' at paragraph 11 is not triggered and paragraph 12 continues to apply where it states that where a planning application conflicts with an up to date development plan permission should not usually be granted. The proposal would be contrary to the up to date CLP.

Conclusion

24. In reaching my decision I have had regard to the matters before me.

Notwithstanding the permission on the site for a stable block of similar appearance and the slight benefit the development would bring in adding to the current housing supply, this proposal conflicts with up to date Development Plan policies and no material consideration has been presented to warrant an exception to the CLP policies relating to development in the Area around Todmorden. For the reasons above the appeal should be dismissed.

P. D. Biggers

INSPECTOR