



Appeal Decision

Site visit made on 23 January 2017

by **Gareth Wildgoose BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 February 2017

Appeal Ref: APP/E2340/W/16/3163643

Land to rear of The Greyhound Inn, Manchester Road, Barnoldswick, Lancashire BB18 5PW

- 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 Martin Rawstron against the decision of Pendle Borough Council.
 - The application Ref 16/0470/RES, dated 5 July 2016, was refused by notice dated 9 September 2016.
 - The development proposed is described as '*outline for residential development (14 dwellings) (Access, Appearance, Layout and Scale) (Re-Submission)*'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development provided by the application form has been updated by subsequent documents. I consider the description of development provided in the appeal form to be accurate and adopt it accordingly.
3. The application was submitted in outline with approval sought for details of access, appearance, layout and scale. Landscaping is a reserved matter for future approval. I have dealt with the appeal on that basis.
4. The evidence before me indicates that following the Council making its decision, an Annual Monitoring Report (AMR) has been published covering the period from 1 April 2015 to 31 March 2016 which updates the housing land supply calculations in Pendle. Although this matter is not reflected in the Council's reason for refusal, it is necessary that the appeal is determined on the basis of the current status of the development plan and its relevant policies.

Main Issues

5. The main issues are:
 - whether the proposal is consistent with the objectives of local and national planning policies relating to the location and supply of housing, and;
 - the effect on the character and appearance of the site and the surrounding area, with particular regard to Calf Hall and Gillians Conservation Area.
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Reasons

Location and supply of housing

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
7. Policy LIV1 of the Local Plan for Pendle Core Strategy 2011-2030 (CS), adopted December 2015, sets out the strategic approach to housing provision and delivery in Pendle. It suggests that over the 19 year plan period from 2011 to 2030, provision will be made to deliver a minimum of 5,662 (net) dwellings, equating to an average of 298 dwellings per annum and where evidence of further need or demand is identified additional dwellings will be provided.
8. Policy LIV1 of the CS refers to a distribution of development set out in Policy SDP3 to deliver the housing requirement. However, amongst other things, it also states that proposals for new housing development will also be supported in other specified locations where they accord with other policies of the CS. The identified locations include, until such time that the Council adopts the Pendle Local Plan Part 2: Site Allocations and Development Policies (LP - SA&DP), sustainable sites outside but close to a settlement boundary, which make a positive contribution to the five year supply of housing land, including those identified in the Strategic Housing Land Availability Assessment (SHLAA).
9. The National Planning Policy Framework (the Framework) seeks to significantly boost the supply of housing in paragraph 47 and Policy LIV1 of the CS is consistent with its requirements. However, the Framework makes clear that relevant policies for the supply of housing should not be considered up-to-date if local planning authorities cannot demonstrate a five-year supply of deliverable housing sites. The Council have indicated in its evidence that a five-year supply of deliverable housing sites in Pendle can be demonstrated with the calculation equivalent to 5.1 years as identified in the AMR. The calculation includes a buffer of 20%, as required by the Framework in circumstances of under delivery of housing, moved forward from later in the plan period to provide a realistic prospect of achieving the planned supply and to provide choice and competition in the market.
10. The appellant has not provided any contrary evidence relating to the Council's housing supply calculations and I have no reason to take a different view to the evidence before me. In such circumstances, paragraph 49 of the Framework and the related criteria in paragraph 14 applicable when a development plan is absent, silent or out of date, are not engaged.
11. The appeal site adjoins the existing built up area of Barnoldswick and therefore, although part of the site is outside of the settlement boundary identified by the Replacement Pendle Local Plan, adopted 2006, it remains in close proximity. The Pendle LP-SA&DP has not been adopted at the present time. Consequently, the proposal does not conflict with the objectives of planning policies relating to the location and supply of housing reflected by Policy LIV1 of CS, in so far as it supports proposals for new housing on sustainable sites outside but close to a settlement boundary which would make a positive contribution to the supply of housing land.

12. However, to conclude on the consistency of the proposal with Policy LIV1 of CS and the development plan as a whole, it is necessary to also assess compliance with other policies of the CS. This includes particular regard to the other main issue in terms of the effect on the character and appearance of Calf Hall and Gillian's Conservation Area which I now go on to consider.

Character and appearance

13. Manchester Road leads out from the built-up area of Barnoldswick into largely ribbon development to the east and south and undulating farmland to the west. An access between the Greyhound Inn and No 59 leads from Manchester Road to the pub car park at the rear of the buildings. The main section of the appeal site consists of land that lies beyond the car park to the north and west of it. The evidence before me indicates that this section of land was formerly occupied by allotments. However, at the time of my visit any previous buildings, structures and other paraphernalia associated to such uses had been removed. The site beyond the car park consisted of overgrown vegetation with some mounds visible and a tree line towards the western boundary which would be unaffected by the proposal.
14. The appeal site lies within both Calf Hall and Gillians Conservation Area and Barnoldswick Conservation Area which separately reflect the distinction between the historic rural and urban character at the settlement edge of Barnoldswick. The large western section of the site beyond the car park is within the Calf Hall and Gillians Conservation Area and the remainder is within the Barnoldswick Conservation Area.
15. The Barnoldswick Conservation Area covers a large area including the historic core of the town and surrounding residential streets. It is characterised by a variety of built forms, with the part of the site within the Conservation Area at its southern edge. The immediate vicinity of the site to the north consists of predominantly terraced streets of two storey stone houses with slate roofs in a compact tightly knit form, of which the adjacent properties in Crow Foot Row are typical. However, the character changes and the density of built form reduces from Low Moor Lane and Long Field Lane onwards, where Overdale a rendered bungalow is located, as the land approaches a stream to the west known as Gillians Beck. To the east, the Greyhound Inn, a rendered three-storey detached property, together with the stone built two-storey properties of Hey Farm Cottage and the adjoining Hey Farm to the south, form part of where the Conservation Area transitions toward a rural character and where land levels slope upwards. The Hey Farmhouse is a Grade II listed building.
16. It is common ground between the main parties that the proposal would not harm the character and appearance of Barnoldswick Conservation Area as the principle of development of that section of the site has been established by a separate extant planning permission granted by the Council in 2015. The alternative scheme consists of 9 dwellings. The parties have also drawn my attention to a previous appeal decision¹ associated with development of 4 dwellings on that part of the site. The previous Inspector expressed concerns relating to that development neither preserving nor enhancing the character or appearance of the Conservation Areas within which it would be sited, together with a loss of privacy to occupiers of neighbouring properties. In granting

¹ APP/E2340/A/11/2163991 - Dismissed - 20 March 2012

- planning permission for the fallback position of the alternative scheme, the Council determined that the Inspector's previous concerns had been overcome.
17. With regard to the above, notwithstanding the different development plan and national planning context upon which the previous appeal decision was made, I share the concerns of the previous Inspector regarding the effect of development beyond the rear building lines of Hey Farm Cottage and Hey Farm upon the sense of openness of that part of the site. Nevertheless, I must have regard to the fallback position of the extant planning permission. In comparison to the extant planning permission, the design and linear pattern of development of two small terraces (houses 1-6 as indicated on the submitted plans) and associated car park areas would complement surrounding development to the north and east. In such circumstances, I find no adverse impact of the proposal upon Barnoldswick Conservation Area. However, the semi-detached and detached houses (houses 7-14) lie further to the west in the Calf Hall and Gillians Conservation Area than the fallback position and the proposal subject to the previous appeal.
18. The Calf Hall and Gillians Conservation Area is rural in character being arranged around two streams, Calf Hall Beck in the north and Gillians Beck in the south, which flow from higher ground to the west of Barnoldswick and historically provided the power source for the industrial development of the town. Based on the evidence before me and my observations, the significance of the Conservation Area is heavily influenced by its industrial and agricultural heritage of existing buildings, together with the surrounding rural character of the undulating landscape. The appellant has queried the Council's approach in designating the Calf Hall and Gillians Conservation Area and in doing so, referred to recent Historic England guidance in a Conservation Area Designation, Appraisal and Management document published in 2016. Nevertheless, the evidence submitted to this appeal leads me to conclude that the designation, and the site's inclusion, was made in accordance with Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
19. The appeal site lies at the eastern edge of Calf Hall and Gillians Conservation Area and is located to the south of part of the Barnoldswick settlement. Consequently, the site is not visible from the majority of the rural hinterland within the Conservation Area due to variations in topography and the boundaries of the Barnoldswick settlement, together with the presence of tree lines and field boundaries. The relevant Conservation Area document² does not specifically refer to the appeal site but, amongst other things, makes reference to '*the Manchester Road descent into the town being surely the most attractive*'.
20. With regard to the above, the section of land to the west and north west of the established rear boundaries of Hey Farm Cottage and Hey Farm and to the south of Overdale makes a positive contribution to the character of open countryside in the immediate surroundings of Gillians Beck. Furthermore, this part of the site also serves an important role in the transition to a rural setting at the edge of the Barnoldswick settlement and from the different character of the neighbouring Barnoldswick Conservation Area. Accordingly, the western part of the site makes a positive contribution to the rural character and

² Proposed Calf Hall and Gillians Conservation Area, Barnoldswick Appraisal of Special Interest and Character

significance of the Calf Hall and Gillians Conservation Area in its present undeveloped state.

21. The development of 8 houses to the west and north west of the established rear boundaries of Hey Farm Cottage and Hey Farm and to the south of Overdale, would only lead to the loss of a small segment of countryside at the extremity of the Conservation Area. Nevertheless, the proposal would have a detrimental effect upon the distinction between the rural hinterland of the settlement and the urban area itself. To my mind, this segment of land serves an important role in the gradual transition from the built form that defines the settlement edge, which when taken together with the neighbouring rear gardens of Hey Farm Cottage and Hey Farm provides a sense openness that would be lost. Consequently, the development would detract from the character and appearance of the Calf Hall and Gillians Conservation Area.
22. In reaching the above findings, I have taken into account that the design, scale and materials of the dwellings would be similar to those existing within the settlement of Barnoldswick. However, the construction of dwellings on the western part of the site would now result in built development where there is presently none and where land levels gently reduce. In this respect, the footprint of buildings and the resultant bulk, scale and massing, together with hardstanding and domestic paraphernalia would inevitably change the character of the site.
23. The change would be much more apparent than the modest scale of buildings and structures typically associated with allotments that were previously present. The loss of views of open countryside and the change in character of the site to a suburban addition beyond the settlement edge would be visible from higher land along Manchester Road and along Crow Foot Row and Long Field Lane to the north. The potential for additional boundary screening or landscaping would not mitigate the harmful change of this part of the site to a suburban character.
24. The effect of the proposal on the setting of the Grade II listed building, Hey Farmhouse would be limited due to the separation distance between that building and the proposal, together with the difference in land levels. However, the absence of concern in that respect is a neutral factor which does not weigh against the harm identified.
25. I conclude that the development would harm the character and appearance of the site and its surroundings and therefore, would fail to preserve or enhance the character and appearance of Calf Hall and Gillians Conservation Area. The proposal would, therefore, be contrary to Policy ENV1 of the CS, and also does not meet the requirements of Policy LIV1 of the CS in that respect. Policy ENV1 of the CS seeks to ensure new development makes a positive contribution to conserving and enhancing heritage assets in a manner appropriate to their significance, including conservation areas. The policy is consistent with the Framework.
26. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Section 66 of the same Act requires special attention to be paid to the desirability of preserving listed buildings and their settings. Paragraph 131 of the Framework requires that account be taken of the desirability of sustaining and enhancing

the significance of heritage assets, and of new development making a positive contribution to local character and distinctiveness. Rather than make the positive contribution desired by paragraph 131 of the Framework, the proposal would harm the local character and distinctiveness of Calf Hall and Gillians Conservation Area. Paragraph 132 of the Framework states that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation. The Framework also makes it clear that significance can be harmed or lost through alteration of a heritage asset or development within their setting.

27. The harm caused would be significant in terms of the immediate surroundings of the proposal. However, the harmful effect would be localised and therefore, it would be less than substantial to Calf Hall and Gillians Conservation Area as a whole.
28. The development offers potential benefits in terms of increasing housing supply and choice. The proposal would also have economic benefits to the local area through Council tax and support for local services. Furthermore, there would be temporary economic benefits with respect to the necessary construction works associated to the development. The extent of the benefits, based on the scale of development proposed, is given significant weight. The re-use of vacant land is not attributed any positive weight given the harm identified.
29. Having regard to the above, the significant weight given to the public benefits identified taken individually or in cumulative would not be sufficient to outweigh the great weight given to the conservation of Calf Hall and Gillians Conservation Area and the less than substantial harm to its significance which I have identified.

Other Matters

30. It is common ground between the main parties that the proposal would be acceptable in terms of highway safety relating to the single means of vehicular access proposed onto Manchester Road and the footpath and cycle link to Crow Foot Row. The Council have also offered no concerns with respect to trees, ecology, drainage, flood risk or the living conditions of occupiers of neighbouring properties. Based on the evidence before me and my observations of the site and its surroundings, I have no reason to take a different view. The site is also below the threshold for affordable housing provision identified in Policy LIV4 of the CS. However, the absence of concern in these respects is a neutral factor which does not weigh in favour of the proposal.

Planning Balance

31. The proposal would conflict with Policy ENV1 of the CS in terms of harm to the character and appearance of the site and its surroundings and therefore, fails to preserve or enhance the character and appearance of Calf Hall and Gillians Conservation Area. As a consequence, the proposal also would not meet the requirements of Policy LIV1 of the CS relating to the location and supply of housing. The proposal would not, therefore, be in accordance with the development plan in circumstances where paragraph 49 of the Framework and the related criteria in paragraph 14 applicable when a development plan is absent, silent or out of date, are not engaged. In such circumstances, planning

law and the Framework³ indicate that planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

32. The Framework makes it clear that the policies that it sets out, taken as a whole, constitute what sustainable development means in practice for the planning system. Paragraph 7 of the Framework sets out three dimensions of sustainable development, namely the economic, social and environmental roles. These dimensions are mutually dependent and should be jointly sought. The appeal proposal would contribute to the social and economic dimension through the provision of 14 new homes to which I attach significant weight. However, it would cause harm to the character and appearance of the site and its surroundings and therefore, would fail to preserve or enhance the character and appearance of Calf Hall and Gillians Conservation Area. Such harm is contrary to a core principle of the Framework that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
33. The Framework does not change the statutory status of the development plan as the starting point for decision making. In this case, the appeal proposal would be contrary to the development plan as a whole, given the conflict with policies I have referred to which are not out of date.
34. On a simple balancing exercise, the adverse impact of the development in terms of the conflict with the development plan and the Framework relating to conservation of heritage assets would not, in my judgement, be outweighed by other material considerations. This includes the contribution of the development to the supply of housing and the significant weight attributed to the identified social and economic benefits which would result. In this respect, the presence of less harmful alternatives for the location and supply of housing which exist to meet the requirements of the CS for development of housing in Pendle is also taken into account. The proposal, therefore, is not sustainable development when considered relative to the Framework as a whole.

Conclusion

35. For the reasons set out above and having taken all other matters into account, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR

³ Paragraph 11