



Appeal Decision

Site visits made on 29 November 2022 & 19 December 2022

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2023

Appeal Ref: APP/E2340/W/22/3304266

Heights Cottage, Heights Lane, Fence, Burnley, Lancashire BB12 9JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Richard Clough against the decision of Pendle Borough Council.
 - The application Ref 22/0018/PIP, dated 4 January 2022, was refused by notice dated 23 February 2022.
 - The development proposed is erect detached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in principle and the second (technical details consent) stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. A plan has been submitted illustrating the location of a dwelling and access arrangements. This is clearly marked as being for illustrative purposes only and I have treated it as such. The permission in principle procedure requires the minimum and maximum number of dwellings to be specified. My assessment is based on one dwelling as applied for.
4. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

¹PPG Paragraph: 012 Reference ID: 58-012-20180615.

Reasons

6. The appeal site comprises an area of land and an access to it running at right angles to the road, Heights Lane, and north of Heights Cottage. Heights Cottage is the end house in a row of three terraced houses located at right angles to Heights Lane. The row of houses are on the western side of Heights Lane, on the other side of which are a grouping of other buildings. The entire group of buildings including Heights Cottage are outside the built-up settlement of Fence. The wider area is that of undulating countryside interspersed with substantial groupings of buildings.
7. The appeal site includes a recently constructed access with stone walling, hardsurfaced areas and outbuildings as well as grassed areas. Its outbuildings, grassed areas, footpath and pond bear the characteristics of a domestic garden although it is visually separated from the house at Heights Cottage by other land, including garden land and a garage.
8. The location of the site gives the appearance of being separate from the terrace to the south and although not entirely isolated, it relates poorly to other buildings in the area especially as it is at the northern end of the wider grouping. This means that development here would appear as a visual intrusion into the surrounding open land.
9. Moreover, the proposed new dwelling would be located in an area identified in the development plan as open countryside outside a rural settlement. Fence is identified in the Local Plan as being a Rural Service Centre and Local Plan² Policy SDP 2 indicates that such settlements will accommodate development primarily to meet local needs. Outside a defined settlement boundary, development will only be permitted for those exceptions identified in the National Planning Policy Framework³ or in the development plan for Pendle.
10. The Framework supports housing developments that reflect local needs and this may entail identifying opportunities to bring forward rural exception sites. However, the Framework seeks to avoid the development of isolated homes in the countryside unless one of a number of circumstances apply. These include homes essential for a rural worker; where development would represent the optimal viable use for a heritage asset; the re-use of redundant or disused buildings; the subdivision of and existing residential building; or the design is of exceptional quality.
11. The proposed development would not fall within any of these categories and therefore the principle of development in this location would conflict with Local Plan Policy SDP 2. Also, Policy ENV 4 aims to ensure new development follows the settlement hierarchy approach in Policy SDP 2 in order to minimise the need to travel. Future occupiers of the proposed dwelling would be likely to utilise the services and facilities in Fence and whilst this would not be entirely dependent on the use of a car, in practice, there would be a degree of dependence on the use of a car especially given the rural nature of the surrounding road network comprising typically of narrow roads and no footpaths. Notwithstanding the bus service referred to by the appellant, which from the information submitted appears fairly infrequent, there would be the

² Borough of Pendle – Local Plan for Pendle Core Strategy 2011-2030, Adopted 17 December 2015.

³ Ministry of Housing, Community and Local Government National Planning Policy Framework, 2021 (the Framework).

need to travel into the settlement to utilise those services and so the proposal would not comply with the objectives of Policy ENV 4.

12. Until such time as the Council adopts the Pendle Local Plan Part 2: Site Allocations and Policies, Local Plan Policy LIV 1 indicates that, amongst other things, sustainable development outside but close to a settlement boundary that makes a positive contribution to the Council's five year supply of housing land will be encouraged. However, I do not consider that development of this site in this location outside the settlement boundary would be sustainable and therefore meet the requirements of this policy. Furthermore, the Council state that it has a supply of housing land to meet its requirements under the Framework and in any case, one dwelling would make only a modest contribution. There is therefore, no justification for allowing this development in terms of Policy LIV 1.
13. I have found that the location of the site in the countryside, outside an identified settlement is not a suitable one for residential development.

Other Matters

14. The appeal site is within the Forest of Bowland Area of Outstanding Natural Beauty (AONB) and the Framework establishes that great weight should be given to conserving and enhancing landscape and scenic beauty in AONB's. However, this appeal relates to the principle of the development and so other than the amount of development proposed, no details are included within the application as to the impact a dwelling would have on the AONB. It is not therefore within the scope of this appeal to judge the impact of the proposal on the AONB and so Policy ENV 1 which seeks to protect natural and historic environments is not relevant. Likewise, the Council's SPD provides specific design criteria which also is not relevant in the context of this appeal.
15. Whilst the issue of safe access to a highway could be relevant to the acceptability of the location of a development, detailed matters such as visibility splay and the displacement of vehicles onto the highway are technical matters and so outside the scope of this appeal which seeks approval in principle only.
16. The appellant states that the proposed dwelling would likely be single storey to accommodate personal requirements but as this appeal relates for permission in principle, it would not be possible to ensure this by way of a condition and specific details of design are not a requirement for this type of application. This matters therefore carries little weight.

Conclusion

17. For the reasons given above, and having regard to the development plan and all other considerations, I conclude that the appeal should be dismissed.

J D Clark

INSPECTOR