



Appeal Decision

Site visit made on 11 January 2023

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/C2708/W/22/3306781

Development at Greenfoot Lane, Low Bentham, Lancaster, North Yorkshire LA2 7ES

- 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 & Mrs Lester against the decision of Craven District Council.
 - The application Ref 2022/24070/OUT, dated 17 May 2022, was refused by notice dated 19 August 2022.
 - The development proposed is outline application for 2 dwellings with all matters reserved except access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Concerns have been raised regarding the address of the appeal site being listed as on Greenfoot Lane, as some consider that the site is on Greenhead Lane, whilst the Council identifies it as Cross Lane. Despite any confusion that may have arisen, the plans clearly identify the site, and all necessary consultation has taken place.
3. The application form lists the proposal as 'residential development'. There is correspondence between the Council and the appellant to change the description to 'Outline application for the construction of 2 dwellings with access for consideration all other matters reserved', however, the appeal form states that the change to the description agreed with the Council is as set out in the banner heading above. The Council determined the proposal on that basis and so shall I.
4. An additional plan reducing the size of the development site was provided by the appellant following the Council's decision. I have considered whether this plan should be accepted in light of the 'Wheatcroft principles'¹, however, as this has not been subject to formal consultation, I have chosen not to accept it.

Main Issues

5. The main issues are:
 - Whether the site would be a suitable location for residential development with regard to local and national planning policy; and
 - Whether the proposal makes effective and efficient use of land.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Reasons

Suitable location for residential development

6. Low Bentham, in conjunction with High Bentham, is identified as a Tier 2 key service centre settlement in the Craven Local Plan 2019 (LP) where Policy SP4 directs a level of growth. The appeal site, which has not been allocated for residential development, is considered by the appellants to be within the main built-up area of the settlement. The Council have, however, identified it as being located outside of, but adjoining, the main built-up area.
7. The site is located along a narrow, unmade road which is also a public footpath. The lane, on which the appeal site is located, appears to have sporadically developed over time with a terrace of cottages nearest the Cross Lane junction, and a small farmstead and detached property on the opposite side of the road to the proposal. Beyond the site, and being the last development along the lane, is a former farmstead, with some of the buildings now converted into residential use.
8. The site is irregular in form as on one side it follows the meandering line of the beck. The land rises from the lane, where the access would be provided, to the top of the paddock which joins agricultural fields beyond. The site is defined by hedging and trees and was apparently previously used for grazing animals.
9. Two houses are currently being constructed adjacent to, and between the terrace of cottages and the appeal site, and I have been made aware of planning permissions relating to the conversion of other buildings in the vicinity, including at the Cross Lane junction. This means that there is further proposed development amongst the sporadic siting of housing in this area.
10. There is some disagreement that the beck referred to in the case officer's report represents the division between the main built-up area of the village and being outside of the village. The Council in the LP defines the main built-up area as 'the settlements closely grouped and visually well related buildings and any associated spaces between these buildings' and includes a number of exclusions.
11. The lane on which the appeal site is located is narrow with an unfinished surface. Despite the housing that currently exists and is being built along the lane, the grass verges and hedges, and views of surrounding fields, provides a rural character, which appears removed from the more clustered housing within the village. Once you reach the beck and the site, there is an impression of openness, with hedging and trees surrounding the site and framing the skyline above. Beyond the site are views of the traditional buildings within the farmstead, which represents the end of development on this side of the village. The lane extends to these buildings, and beyond there only provides access for agricultural vehicles.
12. Although the appellants consider that the appeal site is surrounded by development on three sides, the topography and the general character of the site does not point to this. Whilst there is housing being constructed to one side, this is separated by the beck. On the opposite side, a public footpath adjoins a small, former, agricultural building. To the south, beyond the site, there are open fields, and to the north is the lane which separates the site from the random buildings located on the opposite side of the track. Whilst I agree

that there is no substantive evidence or policy basis for the beck being a defining boundary, it is the evidence on site which brings me to the conclusion that the site is outside but adjoining the built-up area of the village.

13. The proposal has been assessed under LP Policy SP4 I) which supports the release of non-allocated sites for housing that adjoin the main built-up area of Tier 1 to 4 settlements subject to a number of criteria. From the evidence submitted by the Council, despite the appellant finding that there is no evidence that the housing allocation will be achieved during the plan period, it has been shown that a net housing provision is on course to be exceeded. Therefore, criteria a) cannot be met. As the site is not a rural exception site it would not meet criteria b) and neither would it meet criteria c) as no evidence has been provided that the development is justified by special economic, environmental and/or social circumstances.
14. The Council has stated that in line with paragraph 68 of the National Planning Policy Framework (the Framework), a sufficient supply of housing sites has been identified and are on course to be achieved. There is a positive balance for Low and High Bentham in the settlement growth monitoring report. Whilst small and medium sized sites can make an important contribution to meeting the housing requirement of an area, the provision of two additional units would not make a substantial difference and for the reasons outlined above, it would not represent a suitable location for residential development with regard to local and national planning policy. Therefore, the proposal would not accord with LP Policy SP4 and chapter 5 of the Framework as it relates to identifying land for homes.

Effective and efficient use of land

15. Policy SP3 of the LP requires the effective and efficient use of land. The proposal, despite being an outline application, proposes two houses on the site with one part of the site, being the land to the rear of other housing along the lane, not being utilised. This would not provide the recommended housing density of approximately 32 dwellings per hectare (net) as identified in part b) of the Policy, although the Council considers that the development would accord with part a) which requires an appropriate mix of housing. Part c) of the Policy states that the Council will be flexible with regards to housing mix and density to ensure scheme viability, to take account of local variations in housing need, to promote balanced mixed communities or to achieve other local plan objectives.
16. The appellant has stated that the site would not achieve a density of 32 dwellings per hectare, therefore not satisfying part b) of the policy, however, no evidence has been provided to satisfy part c). Therefore, the proposal would not accord with Policy SP3 of the LP. Moreover, the Framework advises that applications should be refused which are considered to fail to make efficient use of land and so on this basis, the proposal also does not accord with the Framework.

Other Matters

17. The unadopted road that provides access to the site is also a public footpath. Many concerns have been raised about its condition, the existing use of the lane by increasing numbers of vehicles, which have on occasion damaged adjoining property, and that the lane does not provide any passing places,

parking or turning circles. However, as I am dismissing the appeal, I have not considered this further.

18. A Public right of way passes diagonally through the site, and this would need to be diverted if the development was permitted. Although there have been concerns raised about moving the footpath, as the appeal is being dismissed, this does not require further consideration.
19. Other concerns have been raised in relation to the water supply, access for waste collection and emergency vehicles, and noise and disturbance as a result of other building work along the lane. These are issues that could be raised in connection with any development site in the area but have no bearing on the outcome of the appeal.
20. Appropriate ecological surveys, an Arboricultural Impact Assessment and a foul drainage assessment have been undertaken and are considered acceptable. Furthermore, a sustainable design and construction statement has been provided. However, this does not affect the outcome of the appeal.
21. Despite the development providing economic benefits resulting from the construction of new housing and the financial input of future residents into the local economy, this does not outweigh the concerns that I have identified.

Conclusion

22. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict.
23. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR