



Appeal Decision

Site visit made on 29 May 2024

by Helen Hockenhull BA (Hons) B.PI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2024

Appeal Ref: APP/E2340/W/23/3331949

Land To The North East Of Pollard Row, Wheatley Lane Road, Fence, Lancashire, BB12 9QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mrs N Rycroft against the decision of Pendle Borough Council.
 - The application Ref 23/0173/PIP, dated 22 March 2023, was refused by notice dated 26 April 2023.
 - The development proposed is permission in principle for the erection of 4 no. dwellings together with garden and parking areas.
-

Decision

1. The appeal is allowed, and Permission in Principle is granted for the erection of a minimum of 3 and a maximum of 4 dwellings together with garden and parking areas on land to the north east of Pollard Row, Fence, BB12 9QF in accordance with the terms of the application, Ref 23/0173/PIP, dated 22 March 2023.

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 at this stage is limited to location, land use and the amount of development permitted. 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.
4. An applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum net number of dwellings as part of the application. In this instance, permission in principle has been sought for a minimum of 3 dwellings and a maximum of 4.
5. In December 2023 a revised version of the National Planning Policy Framework (the Framework) was published. The amendments within this revised document do not relate to the issues raised in this appeal. However, the paragraph numbers within the document have been altered so that references in the parties' appeal statements are now incorrect. For clarity, I have used the new paragraph numbers in my decision.

Main Issues

6. Given the above, the main issues are:

- whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any relevant development plan policies;
- whether the site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development.

Reasons

Background

7. The appeal site comprises a site of approximately 0.15 hectares located to the north east of Pollard Row, off Wheatley Lane Road, Fence. The site lies outside the settlement boundary as defined in the Pendle Local Plan Part 1; Core Strategy and within the Green Belt. The site is bounded by existing residential development on Pollard Row to the west and partly to the south, by Spencer House Farm and associated buildings to the north and to the east by former farm buildings and a barn currently being converted into residential use. I noted on my site visit that a new boundary hedge had been planted and a replacement fence erected on the northern site boundary. The appellant advises that the existing hedge was removed in order to secure the necessary sight lines for the barn conversion development to the east.

Whether inappropriate development

8. Paragraph 154 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development. A number of exceptions are stated including limited infilling in villages.
9. Policy SDP2 of the Pendle Core Strategy defines four categories of settlements within the Borough. Fence is identified as a Rural Service Centre. The policy states that proposals for new development should be within the settlement boundaries. Proposals for development outside the boundaries will only be permitted for those exceptions identified in the Framework or the Development Plan.
10. The Council argue that Fence is a Rural Service Centre and not a village and therefore paragraph 154 of the Framework does not apply. The Core Strategy defines a Rural Service Centre as being slightly larger than a Rural Village offering a wider range of services and facilities to meet the needs of more than just the local population. A Rural Village is much smaller in size both in terms of population and physical area with few or no services, being dependent on nearby Rural Service Centres.
11. Whilst I acknowledge that the settlement hierarchy has been defined using a set of criteria, and that the classification of settlement was agreed by the Inspector examining the Core Strategy, in my view it does not mean that Fence cannot be described as a village, albeit a larger village. It is clearly larger than a hamlet but smaller than a town.
12. It is notable that the Core Strategy refers to Fence as a village. For example, at paragraph 3.27, Foulridge, Fence and Trawden are described as three larger villages. At paragraph 7.14 the Plan advises that in Rural Pendle the villages

are divided into Rural Service Centres or Rural villages. The Core Strategy therefore indicates that Fence can be described as a village.

13. To support their position, the Council refer to an appeal decision in Barrowford in 2015 where the Inspector found that the settlement designations are relevant to the application of paragraph 154 of the Framework. I do not disagree with this point in principle. However, as I have outlined above, Fence, whilst being a Rural Service Centre can also be described as a village. Notably, as I have demonstrated above, the Core Strategy lends support to this view.
14. For the purposes of paragraph 154, the Framework does not specify what size a village must be, whether a settlement must be defined as a village in a local plan or whether a site must be within a defined settlement boundary. Given the above, I conclude that Fence can be considered to form a village and paragraph 154 of the Framework applies.
15. The appellant has brought my attention to Case Law¹ which has established that it is necessary to consider whether, as matter of fact on the ground, a site appears to be within a village. The appellant also references two appeal decisions where this approach has been applied.²
16. The appeal site lies on the edge of the settlement and has built development to the north, west, east and partially to the south. On my site visit, I walked down Wheatley Lane Road in a westerly direction heading out of the village. My perception was that the appeal site was part of the settlement envelope. The character of the area does not change to that of countryside until one is past Spencer House Farm and the farm buildings currently being converted to the east of the appeal site. Whilst it forms undeveloped land, I conclude that the appeal site has a greater relationship to the village than to the surrounding countryside and the Green Belt. It is my view therefore, that the site lies within the settlement. Accordingly, the proposal would form infilling in a village and would not be inappropriate development in the Green Belt, complying with paragraph 154 of the Framework.

Suitability for residential development

17. The Framework in paragraph 83 seeks to promote sustainable development in rural areas and states that housing should be located where it will enhance or maintain the vitality of rural communities.
18. Policy LIV1 of the Core Strategy concerns housing provision and delivery. It states that until such time as the Pendle Local Plan Part 2: Site Allocations and Development Policies has been adopted, sustainable sites outside but close to settlement boundaries which make a positive contribution to the five year housing land supply will be supported.
19. The Part 2 Plan is no longer being prepared. The Council has resolved instead to prepare a new single Local Plan for the Borough. This is still at an early stage of preparation, having been through the Regulation 18 stage in the summer of 2023. In these circumstances, the development of the site for housing would in principle comply with Policy LIV1 and make a positive contribution to housing supply.

¹ Wood v SOS [2014] EWHC 683 (Admin)

² APP/D2320/W/16/3154595 Coppull Moor Lane Nurseries, Coppull Moor Lane, Coppull and APP/R0660/W/17 3170279, Rectory Farm, Old Knutsford Road, Church Lawton.

20. The appeal site has good accessibility to the shops and services in Fence. A footpath runs from the western boundary of the site into the village. A connection could be made to this existing footway to provide a safe off road access to the settlement. Fence provides a primary school, village hall, store, post office, church and three public houses. New residents on the appeal site would support these existing services. Approximately 100 metres from the appeal site is a bus stop providing a regular service to Nelson, Burnley and Clitheroe where additional services and facilities can be accessed as well as rail services.
21. The context of the development is one of residential development. The proposed use would therefore be in keeping with surrounding land uses. I acknowledge that the site is currently in agricultural use. However due to its scale, it does not form the most usable parcel of agricultural land.
22. In terms of the amount of development proposed, four dwellings would be a suitable number, resulting in a density of around 26 dwellings per hectare. This would not be inappropriate or out of character with the local area having regard to the nature of existing built development, predominantly a mix of terraced and semi-detached properties.
23. Given the above, I conclude that the appeal site can be considered to be a suitable location for housing. The proposal would form a sustainable development in the terms of the Framework.

Other Matters

24. Concern has been raised by a local resident about the impact of the proposed dwellings on their amenity and privacy. The details of the proposal will come forward with the Technical Details Consent application. Consideration of matters such as design, layout and separation distances will be addressed at that stage. Concern has also been raised about the site access, increased traffic through the village and the narrowness of Wheatley Lane Road with parked vehicles. The Highway Authority has raised no objection to the proposal on highway grounds. I have no evidence before me to suggest that the proposal would have an unacceptable impact on highway safety.

Conditions

25. It is not possible for conditions to be attached to a grant of permission in principle as its terms may only include the site location, the type of development and amount of development. Conditions may be attached to any approval at the technical details consent stage.
26. Where permission in principle is granted by application, such as this, the default duration of that permission is three years, and there is no justification to vary this period in this case.
27. The Council have suggested an informative be included in the decision should the appeal be allowed, listing the plans and technical documents required to be submitted with a technical details application. This is not necessary.

Conclusion

28. For the reasons set out above, I conclude that the appeal should be allowed.

and permission in principle be granted for a minimum of three and a maximum of 4 dwellings.

Helen Hockenhull

INSPECTOR