



Appeal Decision

Site visit made on 25 February 2025

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 06 June 2025

Appeal Ref: APP/U2370/W/24/3353521

Fernbank, Lancaster New Road, Cabus, Preston PR3 1NL

- 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 Mr Robert Woodhouse against the decision of Wyre Borough Council.
 - The application Ref is 24/00104/PIP.
 - The development proposed is permission in principle for one self build single storey dwelling following demolition of existing store room.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle, which the Planning Practice Guidance (PPG) advises is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first (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. The appeal relates to the first stage.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development. All other matters are considered as part of the subsequent Technical Details application, if permission in principle is granted. I have determined the appeal on this basis.

Main Issue

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

Reasons

5. The appeal site comprises roughly 0.2ha of the garden of Fernbank, which is a detached dwelling set back from the A6 Preston Lancaster Road in a large plot. It lies within a sparsely developed area of countryside between the Small Rural Settlement of Cabus to the north and the Key Service Centre of Garstang to the south. This gap between the two settlements is designated as a Strategic Area of Separation in the Wyre Local Plan (2011-2031) (incorporating partial update 2022) Adopted January 2023 (the LP).
6. LP Policy SP1 sets out the Council's locational development strategy. This seeks to meet the housing needs of all sections of the community, primarily by sustainable extensions to towns and rural settlements in accordance with the settlement hierarchy. Outside of defined settlements, LP policy SP1 seeks to strictly limit new

development. Moreover, development that would erode the openness of designated strategic areas of separation and the effectiveness of the gap in protecting the identity and distinctiveness of the two settlements will not be permitted. LP Policy SP4 seeks to protect the open and rural character of the countryside unless there would be substantial public benefits, including for the purposes of holiday accommodation, affordable housing or rural workers dwellings.

7. Fernbank and the neighbouring Whitemont are somewhat isolated, being well separated from development to either side by undeveloped farmland and with open countryside to the front and rear. Planning permission was granted on appeal¹ for up to 3 dwellings at Nicky Nook View, and for a detached dwelling² at Whitemont, the development of which would result in a ribbon of residential development extending south from Cabus and terminating with Fernbank. Even so, Fernbank is in the countryside, not in or immediately adjacent to a settlement boundary.
8. The proposal would be contained within the residential plot of Fernbank. It would not encroach into surrounding agricultural land to the rear or that separates the boundary of Fernbank from the travelling showpeople accommodation site³ at Conway to the south. However, it would not meet the policy exceptions for development in the countryside and the increase in the quantum of development would erode the openness of the countryside and the strategic area of separation, irrespective of landscape planting. In this regard, the appellant accepts that a comparably scaled outbuilding subject of a lawful development certificate⁴ would generate harm by virtue of development and spread of domestic paraphernalia within the open countryside and the strategic gap. The same would inevitably apply to a new dwelling.
9. The accessibility of the area has been previously considered and accepted in relation to nearby development, although the Inspector at Nicky Nook View found that the A6 was a constraint to journeys on foot or by bicycle to Garstang such that the location was not inherently sustainable with regard to all transport modes. Having visited the site, I also find that the busy A6 will deter the most sustainable transport modes. However, I accept that the general location has been found to be reasonably sustainable taking into account the proximity of the A6, filling stations and Garstang, and bus stops. Nevertheless, accessibility considerations do not negate the harm and policy conflict arising from development in the countryside and strategic area of separation.
10. Therefore, taking into account the conflict with the Council's spatial development strategy and rural housing aims, I conclude that the site is not suitable for residential development, having regard to its location, the proposed land use and amount of development. It would conflict with the aims of LP policies SP1 and SP4. Notwithstanding my finding in relation to the accessibility of the location, the proposal would conflict with LP policy SP2 in relation to development contributing positively to the overall physical and environmental character of the area in which it is located. It would also conflict with the aims of the National Planning Policy Framework 2024 (the Framework) in relation to being sympathetic to landscape setting and maintaining a strong sense of place.

¹ Ref APP/U2370/W/17/3172417

² Ref 18/00173/FUL

³ Ref 17/01176/FULMAJ

⁴ Ref 23/00815/LAWP

Other considerations and planning balance

Self-build and custom housebuilding (SBCH)

11. The Framework supports the Government's objective of significantly boosting the supply of homes. It emphasizes the importance of addressing the needs of different groups in the community with specific housing requirements including people wishing to commission or build their own homes, with reference to the Self-Build and Custom Housebuilding Act 2015 (as amended) (the Act). It also advises that local planning authorities should seek opportunities, including through decisions, to support small sites to come forward for community-led development for housing and self-build and custom-build housing. Under the Act, relevant authorities have a duty to keep a SBCH register of persons seeking to acquire serviced plots for their own self-build and custom housing. They are also required to give suitable development permission to enough suitable serviced plots of land to meet the demand for SBCH in their area, with reference to the number of entries added to its register during a base period.
12. The appellant was not on the Council's SBCH register when the planning application was decided. He was subsequently entered onto it but did not renew his entry following the Council's introduction of a new 2 part register. I note the suggestion that his removal from the register, including for failure to pay the fee, was unreasonable and an attempt by the Council to suppress the number of entries. However, the PPG sets out that relevant authorities who choose to set a local connection test are required to have two parts to their register, with those who apply and meet all the eligibility criteria being entered on Part 1 and those who meet the eligibility criteria except for a local connection test being entered on Part 2 of the register. The PPG is also clear that persons on the register must have paid any fee required by the relevant authority to enter or remain on the register.
13. According to the planning statement, there were 16 individuals on the SBCH register in January 2024. This broadly tallies with Wyre Borough Council's Housing Needs Assessment May 2024 (the HNA). This includes the number of register entries for the base periods from 1 April 2016 until 30 October 2022. At the end of this period there were apparently 23 cumulative total entries but as of December 2023 there were 15 entries on the register.
14. I understand that there is likely to be greater interest in self-build properties than is indicated by the register entries. However, the duty to grant suitable development permissions relates only to meeting the demand by reference to the number of entries added to the authority's register during a base period. There is no evidence before me in relation to the base periods subsequent to 30 October 2022 nor the number of entries on the Council's recently introduced 2-part register. Even so, taking into account that the majority of the demand is apparently from people resident in the borough, I find there is a modest level of demand for SBCH plots.
15. According to the HNA, the Council has permitted 199 suitable sites since 2016 that could be used for SBCH. This would more than meet the demand on the register, but it is not clear those permissions include a mechanism to secure SBCH. Indeed, Inspectors elsewhere have found that Councils should not rely on single dwelling permissions without SBCH restrictions as evidence of development permissions. This is also reflected in the PPG, which sets out methods that authorities could use

- to determine if permissions are for SBCH. As I cannot be certain that any of the permissions referred to in the HNA strictly relates to SBCH plots, a single SBCH dwelling would contribute towards addressing the unmet demand.
16. The Act indicates that permission in principle can be a “development permission”, and therefore a suitable route for SBCH. Nevertheless, the PPG is clear that the relevant authority must be satisfied that development permissions being counted meet the legislative requirements. No planning obligation has been submitted and it is not possible to impose planning conditions on a grant of permission in principle. On the face of it, there would be no mechanism to secure the proposal as SBCH.
 17. I note the appeal decision⁵ for permission in principle for 4 self and custom build dwellings in Warwickshire. The Inspector noted that the PPG and the Town and Country Planning Act 1990 advise that Technical Details Consent (TDC) must be in accordance with the relevant permission in principle. They found that as the description of the development would limit the occupancy of the building to SBCH tenancy, a subsequent TDC would need to robustly demonstrate how it would deliver the SBCH to be approved. The Inspector was satisfied that scheme would help address the SBCH delivery shortfall in that case. However, I have not been provided with the legal advice which that Inspector found to be compelling. Moreover, this appeal relates simply to a 'self-build dwelling', which does not reflect the full, precise language of the Act nor does the description of the development specifically refer to the Act.
 18. In an appeal⁶ at Cropthorne for ‘permission in principle for a single self-build dwelling’, the Inspector attached significant weight to the delivery of SBCH. While that description is similar to the description in this appeal, that Inspector did not consider how the SBCH would be secured and, together with the weight afforded to it, it seems somewhat immaterial in any case given that there was no conflict with the development plan. The approach taken by that Inspector does not provide a compelling justification for the appeal.
 19. I accept that the appellant, although not a builder, would have primary input into the design of the dwelling and he intends to live in it. However, he is not on the SBCH register nor is there evidence that he has applied to be entered onto it. I am mindful that permission in principle can count as development permission for the purposes of the Act, but I cannot be certain that the development described would unambiguously be a suitable development permission. Even if the description was sufficient to secure it as SBCH at TDC stage, one dwelling in the context of the relatively low unmet demand would carry only limited weight in favour.
 20. I have been presented with numerous appeal decisions⁷ relating to, in the main, planning applications where Inspectors attached substantial weight to the delivery of SBCH. Some relate to major residential developments where affordable housing and a large number of SBCH plots were weighed in the context of shortfalls in those Council’s 5 year supply of deliverable housing sites (5YHLS) and significant shortfalls in SBCH permissions. In others, there was no 5YHLS shortfall but SBCH, secured by legal obligation, contributed towards addressing substantial shortfalls in SBCH delivery. None appears directly comparable to the appeal which relates to permission in principle for a single dwelling, where there is apparently no shortfall in

⁵ Ref APP/J3720/W/23/3336035

⁶ Ref APP/H1840/W/21/3276845

⁷ Appendix 8 of the appellant's statement

5YHLS and only a modest unmet demand for SBCH. They do not dictate the weight which should be attached nor provide a justification for the proposal.

Fallback

21. As noted, there is a lawful development certificate for erection of a single storey outbuilding within garden for use as domestic garage, workshop and store at Fernbank. This would be constructed to maximise the value of Fernbank if the appeal was dismissed. As there is a real prospect that the lawful development certificate would be implemented, this is a valid fallback position.
22. I accept that a dwelling could be smaller and therefore a lesser quantum of development than the fallback position of outbuildings. However, there appears to be little guarantee at this stage that the dwelling would not be similar in scale or even larger than the fallback, or that future occupiers of Fernbank would not seek to exercise their permitted development rights in relation to outbuildings.
23. The fallback would have a domestic use ancillary to Fernbank, which is already in residential use. It would be an outbuilding and not a separate dwelling such as would result in an increase in the number of residential occupiers and visitors. The fallback would not result in the additional comings and goings, residential activity and domestic paraphernalia that would be associated with a new dwelling.
24. The appellant acknowledges that the fallback would harm the open countryside and strategic gap, in part due to its domestic use and likely greater spread of domestic paraphernalia than currently exists. The proposal could be similar in scale and design to the permitted development outbuilding. It would be in separate residential use. Therefore, it would result in at least a similar, and likely greater, degree of harm to the open countryside and the strategic area of separation than the fallback. Accordingly, the fallback position carries little weight in favour of a new dwelling.

Previously developed land (PDL)

25. The Framework refers to PDL as land which has been lawfully developed and is or was occupied by a permanent structure, including the curtilage of the developed land. The definition excludes land in built-up areas such as residential gardens but not residential gardens in rural areas. However, even accepting that the appeal site is PDL, the Framework is clear that it should not be assumed that the whole of the curtilage should be developed. Moreover, while the Framework attaches substantial weight to the value of using suitable brownfield land within settlements for homes, it does not similarly support the development of brownfield land in the countryside. Therefore, this carries little weight in favour of the proposal.

Other permissions

26. The Inspector at Nicky Nook View found there would be no significant adverse impact on the character and appearance of the area, in the context of the appeal site being within a concentration of properties around Gubberford Lane. The Council found that the travelling showpeople site at Conway would have a negative visual and adverse impact on the environment, but this harm was outweighed by the social and economic benefits. At Whitmont, the residential development to either side assimilated the scheme into its surroundings and ameliorated the visual impact and loss of openness arising from the scheme.

27. None of these is directly comparable to the appeal proposal in terms of immediately surrounding context, policy considerations and scheme benefits. Those schemes were determined in an earlier policy context and at a time when the Council could not demonstrate a 5YHLS such that the presumption in favour of sustainable development was engaged. They do not provide a justification for the appeal. Appeal decisions for SBCH elsewhere, as discussed above, are also not directly comparable to the appeal and do not weigh in its favour.

The presumption in favour of sustainable development

28. Paragraph 11d) of the Framework sets out that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless clauses i. or ii. provide a reason for refusing it. In this case, the Council can demonstrate a 5YHLS and its Housing Delivery Test: 2023 measurement is 267%. Notwithstanding, the appellant suggests that as there is no LP policy relating to SBCH, the presumption in favour of sustainable development is engaged. However, the absence of an LP policy relating to a specific issue does not automatically mean there are no relevant development plan policies. In this case, the LP dates from 2023 and policies SP1, SP2 and SP4 are consistent with policies in the Framework including in relation to the location of development, supporting healthy lifestyles, limiting the need to travel, promoting sustainable transport, being sympathetic to landscape setting, maintaining a strong sense of place and recognising the intrinsic character and beauty of the countryside. Therefore, the most important policies are not out-of-date and full weight can be attached to them. Accordingly, paragraph 11d) of the Framework is not engaged.
29. The proposal would contribute to the Government's objective of significantly boosting the supply of homes, albeit one dwelling would be a limited benefit. The appellant intends to live in the property and employ local tradespeople. However, he is not on the Council's SBCH register. Even if the description would secure SBCH in accordance with the Act, in the context of the fairly low unmet demand, this would carry limited weight in favour. The dwelling would be a private benefit but there would be limited social and economic benefits arising from its occupation. There would similarly be limited economic benefits during construction, part of which would be realised by construction of the fallback. Collectively, these benefits do not outweigh the full and significant weight afforded to the LP policy conflict and the harm to the open countryside and the strategic area of separation.

Conclusion

30. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict.
31. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester INSPECTOR