
Appeal Decision

Site visit made on 4 January 2017

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 25th January 2017

Appeal Ref: APP/P1560/W/16/3158492

Land to the north of Heath Road at Goose Green, Heath Road, Tendring Green CO16 0BT

- 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 T Blake against the decision of Tendring District Council.
 - The application Ref 16/01093/OUT, dated 12 July 2016, was refused by notice dated 7 September 2016.
 - The development proposed is residential development of 0.4 ha of land to create up to 5 detached dwellings with associated garaging and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved. I have dealt with the appeal on this basis, treating the submitted layout as indicative.
3. The Council has confirmed that it is not able to demonstrate a five year supply of deliverable housing sites (HLS), as required by the National Planning Policy Framework (the Framework)¹. As a result, all relevant policies for the supply of housing in the Tendring District Local Plan (LP) (2007) are considered to be out-of-date. In these circumstances, the presumption in favour of sustainable development means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be restricted². I have considered the appeal on this basis.

Main Issues

4. The main issues are:
 - (a) Whether the location would provide acceptable access to everyday local facilities, by a range of modes of transport; and
 - (b) Highway safety in the vicinity of the appeal site, with particular regard to visibility.

¹ See Paragraph 47 of the Framework

² See Paragraph 14 of the Framework

Reasons

Access to facilities

5. The site is a roughly triangular area of open field that lies outside any defined settlement on the edge of a short row of dwellings situated on Heath Road between Tendring Green and Tendring. There are a small number of detached dwellings opposite the site. For the purpose of considering the development against local and national planning policies, I consider the site to be in the open countryside.
6. The main part of Tendring is around 1.3km along a good, but generally unlit footpath. Tendring Green is some 700-800m in the other direction along a similar pedestrian route. Access to everyday facilities is relatively poor. The site is within a reasonable walking distance of a play area and Tendring Primary School. However, there appears to be no shops capable of providing for everyday convenience needs, health facilities, secondary education facilities or such things as libraries or post offices in the immediate area or in the settlements closest to the site.
7. The Council has suggested the site is also poorly related to employment opportunities. The appellant has highlighted a residential care home in Tendring Heath (around 1.6km away, beyond Tendring Green) and a planned B2 and B8 development around 3.2km (2 miles) from the site where jobs may be available. While the care home may 'currently' be seeking nurses, this provides only a narrow scope for employment. The information relating to the planned Tendring Europark is also quite limited and is currently only 'approved'. This does not imply that the employment opportunities are available currently and there is nothing before me which indicates the scale, timing or likelihood of this development coming forward. Therefore, while I have had regard to these factors, they do not persuade me that this is a location with good access to employment.
8. There is little doubt that any future occupants of the site would need to travel to meet their everyday needs. The appellant has provided information relating to public transport provision in the area. The services which pass by the site are relatively frequent and provide access to settlements, which it would be reasonable to assume provide a wider range of facilities than are available in the vicinity of the site. However, I would question the likelihood of future occupants utilising them on a regular basis. There are no bus stops in the immediate vicinity of the site, with the nearest being around 700 metres away in Tendring Green. There are also stops in Tendring, which are approximately 1.5km from the site.
9. The walk into Tendring is beyond what most would consider a reasonable walking distance to access a bus stop. The distance to Tendring Green is not entirely prohibitive and the route is along a pavement. Nevertheless, it is at the upper limit of what might be considered a reasonable walking distance. The route is also unlit and generally runs alongside open fields, with only sporadic residential development along the way. The road appears quite busy and, from what I could see, free flowing and relatively fast moving. To many this may feel a somewhat isolated walk. Notwithstanding the distance, the nature of this route is unlikely to encourage significant public transport usage, particularly in the winter months. The appellant has suggested that the bus operator stops on request anywhere along the route. I have nothing which

corroborates this anecdotal information and thus I have given it little weight. In any event, it would not be appropriate to rely on the long term goodwill of the bus operator in lieu of nearby bus stops.

10. It has been stated that the site is well related to National Cycle Route No 51. This runs through Tendring Green and is not too far from the site by bicycle. However, there is no indication of the distances that people may need to cycle along this route to reach any settlement where everyday facilities could be accessed. The existence of a cycle route does not necessarily mean that future occupants would be likely to consider cycling a reasonable or realistic option if other settlements are not conveniently located. Again, while I have had some regard to this, it is not convincing evidence that cycling offers a realistic choice to meet day-to-day needs.
11. The appellant has drawn my attention to a number of appeals and Council decisions which he considers demonstrates the site is in an accessible and sustainable location. Some supporting information has been provided with some of these examples, but in others I only have the decision letter or notice. As such, I cannot conclude with any certainty that each case referred to is comparable to the development before me.
12. In terms of the appeals, it would appear that the sites were either within, or closely related to, the settlements of Tendring Heath or Tendring Green (the appellant's statement suggests one site is opposite the appeal site, but this does not appear to be the case). This is not the case here. The Inspector in the Tendring Green appeals accepted that people may walk or cycle to Tendring Heath. This settlement is somewhat further from the appeal site than Tendring Green and thus I would not come to the same conclusion. I also note that in the Tendring Heath appeal, the proximity to the limited services that did exist carried some weight. The direct access to bus stops in the settlements also carried weight in both Tendring Green and Tendring Heath. Those factors do not apply here.
13. Tendring Green is at around 700m to the north of the site and appears to have no facilities at all. Tendring Heath is around another 1km further on. The decisions also indicate that there was no significant level of service provision in either settlement at the time the appeals were being considered. It is unlikely, therefore, that people would walk or cycle the distances required to access what appears to be a very limited level of service provision in these locations from the appeal site. The appeal decisions are not, therefore, directly comparable to the development before me in terms of location and do not persuade me that the site should be considered accessible by a range of modes of transport or has good access to facilities.
14. I have not been provided with full details of the permissions the Council has granted, though note they are also in either Tendring Green or Tendring Heath. As noted above, these are not directly comparable locations to the appeal site in terms of access to public transport or facilities, nor in my view do these decisions suggest an inconsistent approach to development in the area.
15. In any case, I have assessed the appeal on its own merits based on the evidence before me and my own observations. As a result, I find that the site has poor overall access to everyday facilities by a range of modes of transport. While there would be some limited opportunities to utilise public transport, the distances to bus stops are unlikely to facilitate public transport as a realistic

- option for most people. Walking and cycling would also not provide opportunities to access most everyday facilities. This, and the lack of facilities in nearby settlements, would lead me to conclude that future occupiers would be reliant on the car for the vast majority of trips. Only the primary school provides any form of nearby facility and this alone would not be sufficient to alter my conclusions on the site's access to facilities or realistic travel choices.
16. There would be clear conflict here with saved LP policy QL1, which establishes a spatial strategy of delivering growth into larger urban areas and other defined settlements. The general thrust of the policy to focus development into areas with good access to services and facilities is broadly consistent with the principles of the Framework. However, the policy creates something of a blanket restriction outside defined settlements for which there is no provision within the Framework and which would be contrary to its objectives to boost significantly the supply of housing.
 17. The Council acknowledge that as a result of their HLS situation, this policy is out of date and the requirements of the Framework are a significant material consideration. Paragraph 55 is particularly important as it provides specific guidance on housing in rural areas. This states that to promote sustainable development, housing should be located where it will enhance or maintain the vitality of rural communities. The example given is where development in one village may support services in a village nearby. It also states that isolated homes in the countryside should be avoided unless it meets one of the 'special circumstances' listed. This approach fits into the core planning principle of supporting thriving rural communities.
 18. The development would essentially constitute a marginal increase in sporadically located dwellings between settlements for which there is no provision within the Framework. The likely dependency on the car would not suggest any functional link or connection between the development and any particular settlement or set of services. Therefore, the benefits to the vitality of any individual settlement in the context of paragraph 55 would be negligible. While it is not unusual for there to be a greater reliance on the car in rural areas, the Framework still encourages development to be located where it can make the fullest possible use of public transport, walking and cycling and that people should be given a real choice about how they travel. I am not convinced that the site would provide such reasonable or realistic travel choices for most people or that such restricted travel choices are inevitable in rural areas.
 19. While the site is within a small grouping of settlements that are relatively close to one another, the evidence does not convince me that there is any significant degree of service provision, either in an individual settlement or across the area, that the development would help to maintain or enhance. Only the nearby primary school could realistically benefit from the development, but there is nothing to suggest that the school has any on-going issues with viability that need to be addressed.
 20. In conclusion, I find that the site would not provide adequate access to everyday facilities by a range of means of transport. While it carries limited weight, the development would still conflict with saved LP policy QL1 which seeks to meet housing needs in the most sustainable and accessible locations. The underlying principle of managing growth toward accessible locations and

accords with national policy. Thus, I consider the development would conflict with the requirements of the Framework in terms of managing patterns of growth in order to make the fullest use of public transport, walking and cycling or locating development where it can maintain or enhance the vitality of rural communities.

Highway Safety

21. The Council's main concern here is their assertion that the appellant does not control all of the land necessary for visibility splays. However, access is a reserved matter and the layout provided by the appellant is indicative only. The location of the access and the nature of any visibility splays would be addressed at the reserved matters stage. The highway authority has not suggested in its comments the visibility splays shown would not be adequate or that a safe access would not be possible in this location. They have also not demonstrated that there are any existing issues with road safety in the area.
22. In addition, the appellant has submitted evidence that indicates the visibility splays illustrated are either on land within the ownership of the appellant or on highway land. The Council has not provided anything to refute this and thus I am satisfied that the information addresses the concerns raised.
23. There is no convincing evidence, therefore, that it would not be possible to provide a safe means of access with sufficient visibility from the site. Thus, I find that there would be no material harm to highway safety and no conflict with LP policies TR1a or QL10 which seek, amongst other things, to ensure that development prevents hazards and that access to a site is practicable and safe. I also find no conflict with paragraph 35 of the Framework which requires development to create safe layouts.

Other Matters and Planning Balance

24. Paragraph 7 of the Framework states that there are three dimensions to sustainable development; economic, social and environmental. All three must be considered with regard to the presumption in favour of development.
25. The provision of an additional five dwellings would make a small but valuable contribution to the Council's acknowledged shortfall in housing supply. Investment in construction and related employment would be an associated benefit, but the temporary nature of this carries little weight.
26. The development would provide some additional expenditure potential to support services, but aside from the primary school, the poor relationship and lack of accessibility to day-to-day facilities weighs against the development in terms of the social dimension of sustainable development. The likely reliance on the private motor vehicle, the least sustainable mode of transport, also conflicts with the environmental objectives of the Framework. In particular, it would be contrary to the aim of moving toward a low carbon economy and using natural resources prudently. The location of the site also relates poorly to the economic role of ensuring development takes place in the right locations.
27. The Council has raised no concerns with regard to the character and appearance of the area or encroachment into the countryside. While the development would encroach into open fields, it would be seen as a continuation of the existing row of dwellings and would not appear incongruous in the context of other residential development near to the site. As such, this

would not conflict with the environmental dimension of sustainable development. However, a lack of harm in this respect does not carry significant weight in terms of considering the benefits of the development.

Conclusion

28. Notwithstanding my views on highway safety, I find that the adverse impacts identified would significantly and demonstrably outweigh the benefits of the development when assessed against the policies of the Framework when taken as a whole. The proposal would not, therefore, represent sustainable development.
29. Whilst the policies breached are out of date the proposal would nevertheless be contrary to the development plan and this conflict would not be outweighed by other material considerations including the provisions of the Framework and paragraph 14 in particular. Therefore, I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR