
Appeal Decision

Site visit made on 14 March 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 31st March 2017

Appeal Ref: APP/P1560/W/16/3165144
Stones Green Road, Tendring CO16 0DD

- 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 Sara Harrison-Osborne against the decision of Tendring District Council.
 - The application Ref 16/01044/OUT, dated 1 July 2016, was refused by notice dated 1 September 2016.
 - The development proposed is residential development of 0.5ha of land to create 5 detached dwellings with associated garaging and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the residential development of 0.5ha of land to create 5 detached dwellings with associated garaging and parking at Stones Green Road, Tendring CO16 0DD in accordance with the terms of the application, Ref 16/01044/OUT, dated 1 July 2016, subject to the conditions set out in the Schedule to this decision.

Procedural Matter

2. The application was submitted in outline with all matters reserved for future consideration. A site plan was submitted with the application for indicative purposes only. I have determined the appeal on that basis.

Main Issues

3. The main issues are:
 - whether the proposal would be a suitable location for new housing having regard to reliance on private car; and,
 - the effect of the proposal on the character and appearance of the area.

Reasons

Planning Policy Context

4. The development plan comprises the saved policies of the '*Tendring District Local Plan 2007*' (LP). The Council has also made reference to the emerging '*Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document*'. The emerging plan is nevertheless at an early stage of preparation and I therefore afford little weight to its policies.
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5. The appeal site is located outside of any defined Settlement Development Boundaries within the LP. As a result, the proposal would conflict with Saved Policy QL1 of the LP which seeks to focus development in the District towards larger urban areas, towns, villages and within settlement development boundaries.
6. However, Paragraph 49 of the '*National Planning Policy Framework*' (the Framework) states that relevant policies for the supply of housing should not be considered up-to-date if a Council cannot demonstrate a 5 year supply of deliverable housing sites. Saved Policy QL1 seeks to control the location of housing and is, therefore, a relevant policy for the supply of housing. The Council accepts that it is currently unable to demonstrate a 5 year supply of deliverable housing sites. Consequently, LP Policy QL1 should not be considered up-to-date and I afford it limited weight.
7. Paragraph 14 of *the Framework* sets out the presumption in favour of sustainable development as: where the development plan is absent, silent, or, as in this case, relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against *the Framework* taken as a whole.

Location

8. Paragraph 17 of *the Framework* sets out that a core planning principle is to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling. Whilst recognising opportunities to maximise sustainable transport solutions will vary from urban to rural areas, Paragraph 29 of *the Framework* states that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.
9. The parties have drawn my attention to a recent appeal decision¹ at Land adjacent to the Fat Goose PH, Tendring Heath which is close to the appeal site. At the time of the decision the Fat Goose operated as a restaurant, local shop and delicatessen. The Inspector found that the business would allow occupiers of that development to access basic provisions.
10. However, the parties indicate, and indeed it was apparent from my site visit, that the Fat Goose has since closed and no longer provides those goods and services. Whilst the appellant indicates that the property has been purchased and will re-open following a period of refurbishment, I have no substantive evidence to support that suggestion. Moreover, the appellant would have no control over whether the re-opened business would offer day-to-day goods and services. No other services or facilities within walking distance have been brought to my attention.
11. Nevertheless, whilst there are no services and facilities which would meet the everyday needs of future residents within walking distance of the site, bus stops are located close to the site on Heath Road. The stops offer access to regular bus services to Colchester, Clacton-on-Sea and other towns. Those settlements offer a wide range of facilities and services which would meet the day-to-day needs of residents. Regular and readily accessible bus services in

¹ APP/P1560/W/15/3133238

close proximity to the appeal site would therefore encourage future residents to use public transport to meet their needs for basic provisions.

12. In addition, the appeal site is located adjacent to the National Cycle Route No 51 which runs from Harwich to London and provides cycle access to a range of settlements in the wider area. Moreover, the appeal site lies in close proximity to an extensive care facility site which could reasonably provide employment opportunities that would be accessible on foot. Indeed, I noted on my site visit displays at the entrance to the homes advertising job opportunities. Consequently, I am satisfied the proposal would make the fullest possible use of sustainable transport modes.
13. I conclude, therefore, that the proposal would be a suitable location for new housing having regard to reliance on private car. The proposal would, as such, accord with the provisions of Paragraph 17 and Paragraph 29 of *the Framework*.

Character and Appearance

14. The appeal site is an area of grassed field which is bound by a hedgerow on Stones Green Road with a dense hedgerow of mature vegetation along the north western boundary of the site. Beyond the site is a wide expanse of open and undulating farmland. The appeal site lies on the boundary of the Bromley Heathland Plateau and the Tendring and Wix Clay Plateau as identified in the *Tendring Landscape Character Assessment 2001* (TLCA). The TLCA identifies the Bromley Heathland Plateau landscape as an elevated plateau dominated by large scale, geometric arable fields, whilst the Tendring and Wix Clay Plateau is identified as being characterised by an ancient pattern of isolated farms, hamlets and villages interspersed with fields. The guidance within the TLCA states that any development within the Bromley Heathland Plateau and the Tendring and Wix Clay Plateau should seek to maintain the historic dispersed settlement pattern and that further incremental linear development would disrupt this pattern.
15. In contrast to the wider landscape, the immediate area is characterised by a loose ribbon of largely residential development albeit interspersed by undeveloped areas of land which contribute positively to the spacious, rural character of the settlement. The development would extend the existing linear development on the north side of Heath Road along Stones Green Road into an area which is generally free from built form. The proposal would therefore inevitably introduce urban form into an area of land which is currently free from development.
16. However, change in character need not necessarily equate to harm. The appeal site is distinctly separate from the wider landscape, being enclosed by the dense vegetation on its boundaries. The proposal would be contained within the established confines of the site and would not result in a significant erosion of the open countryside beyond. Moreover, the proposal would be largely viewed in the context of the existing development on the south side of Heath Road and the extensive care home complex to the east.
17. Furthermore, the indicative layout demonstrates that five dwellings could be accommodated on substantial plots with generous spaces between, with a density of around 10 dwellings per hectare. This would retain extensive open spaces and vegetation within the site. As a result, the proposal would not

detract from the loose knit pattern of the settlement and would maintain the open, rural character of the area.

18. I conclude, therefore, that the proposal would not have a harmful effect on the character and appearance of the area. Consequently, the proposal would accord with Policies QL9 and EN1 of the LP which state that new development should protect or enhance local character and the quality of the district's landscape.

Planning Balance

19. I have found that the proposal would be a suitable location for new housing having regard to reliance on private car and that it would not have a harmful effect on the character and appearance of the area. In addition, there is no evidence that the proposal would affect biodiversity and ecology, subject to a condition ensuring any vegetation clearance is done so outside of the nesting bird season. As such, the proposal would meet the environmental role of sustainability.
20. There would also be economic and social benefits arising from the development. The proposal would make a modest but nevertheless important contribution towards the supply of housing in the District. The development would also support jobs during the construction phase. Paragraph 55 of *the Framework* states that housing should be located where it will enhance or maintain the vitality of rural communities. Although modest in scale, the development would nevertheless be likely to maintain or even enhance the vitality of existing and future businesses in the locality through increased spending from future residents.
21. Local residents have raised concerns that the area has no viable infrastructure to sustain new development. However, I have no substantive evidence to demonstrate that is the case. Indeed, the appellant points out that a recently commenced development to the north of the appeal site has an obligation to provide infrastructure to assist with the provision of high speed broadband in the District. It has also been put to me that local schools do not have sufficient vacancies to accommodate the proposals. However, I have not been given any detailed evidence which quantifies the extent of any local shortage or the need for any new facilities.
22. I note the concerns that the proposal could set a precedent for similar developments in the future. However, I have no compelling evidence to suggest that there are other sites with comparable characteristics. In any case, I have dealt with the appeal proposal on its own merits.
23. Consequently, whilst the proposal would conflict with LP Policy QL1, it would accord with LP Policies QL9 and EN1 and, having assessed the proposal against the policies in *the Framework* as a whole, there would be no adverse impacts arising from the development that would significantly and demonstrably outweigh the benefits of the scheme. The proposed development would, therefore, constitute sustainable development for which there is a presumption in favour of as set out in Paragraph 14 of *the Framework*.

Conditions

24. In addition to the standard time limit conditions for the submission of details pursuant to the reserved matters and for the implementation of the

development, I consider a condition requiring any vegetation removal to be undertaken outside of the bird nesting season to prevent harmful impacts on ecology. A condition requiring the submission of a Constructed Method Statement is necessary to prevent harm to the living conditions of neighbouring residents and to highway safety. I have considered all other conditions requested by the Highway Authority, however, access is a reserved matter and it would not be necessary to impose those conditions on an outline permission.

Conclusion

25. For the reasons given above I conclude that the appeal should be allowed.

Jason Whitfield

INSPECTOR

SCHEDULE

- 1) Details of the access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The removal of vegetation shall only be carried out outside of the bird nesting season - March to August inclusive.
- 5) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors
 - ii. loading and unloading of plant and materials
 - iii. storage of planting and materials used in constructing the development
 - iv. wheel washing facilities.

-----END OF SCHEDULE-----