
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/16/3165583

The Cottage, Broad Lanes, Elmstead, Essex CO7 7HA

- 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 Bill Marshall against the decision of Tendring District Council.
 - The application Ref 16/00448/OUT, dated 21 March 2016, was refused by notice dated 17 June 2016.
 - The development proposed is demolition of The Cottage and the erection of four new dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A proposal for full planning permission for 4 dwellings on the appeal site was recently dismissed on appeal¹. The application subject to this appeal was submitted in outline with all matters reserved for future consideration to attempt to overcome some of the previous Inspector's concerns. A site plan was submitted with the application for indicative purposes only. I have determined the appeal on that basis.
3. The Council has made reference to Policy SD5 of 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 am therefore unable to afford Policy SD5 more than very little weight.

Main Issues

4. The main issues are:
 - whether the proposal would be a suitable location for 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

5. The development plan comprises the saved policies of the '*Tendring District Local Plan 2007*' (LP). Policy QL1 of the LP states that development will be focussed towards larger urban areas, towns, villages and within settlement

¹ APP/P1560/W/16/3158558

- development boundaries. Outside of these, it only allows for housing development which is consistent with countryside policies
6. The appeal site is located outside of any defined Settlement Development Boundaries within the LP. There is no indication that the proposal would accord with any of the countryside policies as referenced within Policy QL1. As a result, the proposal would conflict with Saved Policy QL1 of the LP.
 7. 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 therefore afford it limited weight.
 8. 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.
 9. Paragraph 17 of *the Framework* sets out a core planning principle which underpins decision taking 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* nevertheless states that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.
 10. The appeal site forms part of a small cluster of houses located to the north-east of Wivenhoe and the south-west of Elmstead. There are no services or facilities within the immediate vicinity and it is therefore inevitable that future residents would have to travel beyond the settlement to meet their day-to-day needs.
 11. Wivenhoe contains a number of services and facilities that would meet the everyday needs of future residents. The appellant has referred to the Chartered Institution of Highway and Transportation publication '*Providing for Journeys on Foot, 2000*' which indicates that desirable walking distances are 400m with a maximum of 1.2km. Apart from a cycle route, all of the local services and facilities referred to by the appellant exceed the desirable walking distance, whilst only Wivenhoe Town FC and Tennis Club is within the maximum 1.2km distance.
 12. In addition, in order to access the closest services and facilities, residents would need to walk along rural roads which are largely unlit and without footpaths for their duration. Along with the distances involved, such a requirement would likely be a deterrent to future residents to access everyday services on foot, particularly during evenings or periods of inclement weather.
 13. It is also argued that a well-maintained footpath from the corner of Broad Lanes via Fen Farm would provide appropriate walking access to the services and facilities in Elmstead Market. However, that would require travel at a distance of over 1km across an unlit, rural path. Whilst the footpath would

- undoubtedly be attractive for recreational walking and cycling, it would not be practical for everyday trips particularly during the hours of darkness or periods of inclement weather.
14. A bus stop is located within 1.1km of the site opposite The Flag Public House on Colchester Road. The timetables provided indicate that there are regular services to surrounding settlements. However, the distance and the requirement to negotiate unlit rural roads without footpaths to access the stops means it is unlikely that bus travel would be a realistic option for future residents. The appellant has also suggested that residents would have access to community transport providers. However, I have been provided with no evidence of the capacity or availability of such providers in the area and in any event, such services are unlikely to facilitate a regular or easily accessible public transport option.
 15. I agree that the distances involved would not necessarily be prohibitive to cycling. However, the nature of the routes involved lead me to conclude that cycling for everyday trips would not be an attractive form of transport. I find, therefore, that future residents would be reliant on private car in order to access the basic services and facilities necessary for day-to-day living.
 16. Paragraph 55 of *the Framework* encourages new housing where it will enhance or maintain the vitality of rural communities. I recognise that the vitality of rural communities cannot be maintained or enhanced by a total embargo on housing in rural areas, indeed all settlements can play a role in delivering sustainable development. I also recognise that there will inevitably be a greater reliance on private car travel in rural areas than urban areas. That is reflected in Paragraph 29 of *the Framework*.
 17. However, in this instance that the location of the appeal site is such that the proposal would fail to contribute towards managing patterns of growth to make the fullest possible use of public transport, walking and cycling. Moreover, I find future residents would not have adequate opportunities to make the fullest possible use of public transport, walking and cycling and would be largely reliant on private car in order to access the necessary services and facilities for day-to-day living. The location and accessibility of the site in relation to nearby settlements suggests that the proposal would be unlikely to maintain or enhance the vitality of those communities.
 18. The appellant has made reference to three recent appeals² in the area for housing in rural areas which were allowed. However, it is apparent that the appeal sites in those cases had some basic facilities within walking distance and were readily accessible public transport. That is not the case here. In any event, I have considered this appeal on its own merits.
 19. I conclude, therefore, that the proposal would not be a suitable location for housing having regard to reliance on private car. As such, whilst it carries limited weight, the proposal would conflict with Policy QL1 of the LP. In addition, it would conflict with the principles set out in Paragraphs 14, 17, 29 and 55 of *the Framework*.

² APP/P1560/A/14/2215954, APP/P1560/W/15/3028070, APP/P1560/W/15/3014909

Character and Appearance

20. The appeal site comprises a detached house with a large garden. The site is within a small scattering of residential properties within an otherwise open and expansive area of countryside. Set back from Brightlingsea Road, the properties are set around the informal, rural lane of Broad Lanes and are interspersed with a dense variation of mature hedgerows and trees. The properties are separated by generous gardens and areas of vegetation, with a considerable variation in their architectural form. As such, the area has a distinct, rural character.
21. In contrast to the previous appeal, the Council has raised no particular concern with the appearance or layout of the scheme. Indeed, as those matters are reserved for future consideration, I agree with that approach. However, the Council has raised concerns that the indicative plan shows the provision of a 2.4m wide visibility splay on Broad Lanes which would require the removal of a large section of mature hedgerow.
22. Whilst I note the loss of mature hedgerow would result in the loss of part of a key feature of the area's character, I was able to see from my site visit that gaps in hedgerows to allow for gates and accesses to hard surfaced areas were a common feature. In addition, some mitigation could be provided through additional landscaping which could be secured at reserved matters stage. This would assist in preventing the development from appearing unduly prominent in wider views. As such, I find the loss of the hedgerow would not undermine the rural character and appearance of the area.
23. 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 Saved Policy EN1 of the LP which states that the quality of the District's landscape and its local character will be protected, and where possible, enhanced.

Planning Balance and Conclusions

24. There would be important economic benefits as the development would support jobs during the construction phase. There would also be benefits from the spending of future residents in the local economy particularly with employment opportunities through the University of Essex and the Knowledge Gateway.
25. The proposal would encourage the effective use of previously developed land in line with Paragraph 17 of *the Framework*. In the absence of a 5 year supply of housing land, the proposal would also make a modest but nevertheless important contribution of 3 additional dwellings towards boosting the supply of housing in the District, in line with Paragraph 47 of *the Framework*. This would contribute towards the social role of sustainability.
26. Environmentally, I have found that the proposal would not harm the character and appearance of the area. I have also considered concerns raised regarding drainage, however, I have no substantive evidence to conclude that the proposal would likely have an adverse effect on flooding in the area. Nor do I have any compelling evidence to suggest the proposal would unduly harm highway safety.
27. However, I have found that considerable harm would arise as the proposal would not be a suitable location for housing having regard to reliance on

private car and would conflict in that respect with Paragraphs 14, 17, 29 and 55 of *the Framework*. The proposal would therefore fail to fulfil the environmental role of sustainability.

28. Having assessed the development proposal against the policies in *the Framework* taken as a whole, I conclude that the extent of the harm is such that the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the development. In the context of Paragraph 14 of *the Framework*, the proposed development would not, therefore, constitute sustainable development for which there is a presumption in favour of.

29. For the reasons given above I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR