

Appeal Decision

Hearing held on 14 March 2017

Site visit made on 14 March 2017

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 5 April 2017

Appeal Ref: APP/P1560/W/16/3159703

Land off Wick Lane, Ardleigh, CO7 7NS

- 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 Gladman Developments Ltd and Mr David Salmon against the decision of Tendring District Council.
 - The application Ref 16/00632/OUT, dated 21 April 2016, was refused by notice dated 20 July 2016.
 - The development proposed is outline planning permission for up to 118 residential dwellings (including up to 25% affordable housing), the introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from Wick Lane and associated ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Prior to the Hearing, the main parties agreed the provisions of a Legal Agreement under s.106 of the Town and Country Planning Act 1990 for financial contributions towards open space, education and healthcare, and for a proportion of the proposed dwellings to be set aside as affordable housing. I was furnished with a draft copy prior to the Hearing, and I allowed the main parties three additional days to provide the signed and engrossed copy. This I duly received. As a result, the Council confirmed that it was no longer defending its second reason for refusal. However, because I am dismissing the appeal on the main issue, it is not necessary for me to consider the adequacy of the obligation in my decision.
 3. I also requested at the Hearing, and received at the same time as the obligation, a revised masterplan drawing (*Ref: 7017-L-03 Rev H*) which updated the position in respect to land allocated for transfer to the Ardleigh St Mary's Primary School, and which is now proposed as allotment gardens. Had I been minded to allow the appeal, I would have substituted this drawing with that submitted with appeal (*Ref: 7017-L-03 Rev G*), and imposed a planning condition that development accord with the updated masterplan drawing.
 4. The appeal is made in outline form only, with all matters reserved for future consideration with the exception of access. Any other details shown which
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would be a reserved matter, such as the layout, I shall treat as being indicative only.

Main Issue

5. The main issue is whether the proposed development would promote sustainable patterns of growth having regard to its scale and size and access to local services and facilities.

Reasons

Policy context

6. The development plan for the area is the Tendring District Local Plan 2007 (Local Plan). It is common ground between the main parties that Local Plan policy QL1 is pertinent to the appeal, and that it along with other Local Plan housing policies are time expired because the housing policies only cover a period up until 2011.
7. Common ground also exists between the main parties that the Council cannot demonstrate a five year supply of housing land, and thus paragraphs 49 and 14 of the National Planning Policy Framework (the Framework) are engaged. I shall return to paragraph 14 later. The appellants neither contest nor endorse the Council's claim to having a 4.4 years housing supply, preferring instead to stand by its calculations of a considerably less figure. However, I am inclined to find that the Council's housing supply claim is more reliable, because firstly its calculations are based on more recent figures than that relied on by the appellants, and secondly because the Inspector in recent appeal decisions tabled by the Council (*Refs: APP/P1560/W/16/3145531; 3156451 and 3156452 for outline residential development at Land North of Rush Green Road*) also found the housing supply to be closer, albeit slightly higher, to the Council housing figure for this appeal.
8. I heard evidence from the ward councillor in which he suggested the Council in fact does have a five year housing supply, which he bases on the above Inspector's findings plus the additions of recently approved housing schemes. While I do not doubt that these additional dwellings would improve the overall housing supply in the borough, it does not necessarily follow that a five year supply is achieved, a position endorsed by the Council which stated at the Hearing that even accounting for these additional units, it is not confident a five year housing supply can be demonstrated. On the evidence before me, I am content to conclude the Council's assertion of a 4.4 years supply is correct.
9. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. While I agree with the main parties that the Local Plan in respect of settlement boundary limits and the quantum of houses sought are out-of-date, I find that the settlement hierarchical approach taken by Local Plan policy QL1 to promote and direct growth to the borough's larger settlements, is consistent with Framework's approach to sustainable development. This, and having regard to the Council's relatively small deficit below a five year housing land supply, persuades me that Local Plan policy QL1 should be afforded moderate weight in my decision.

10. The Council is working towards a new Local Plan entitled the “*Tendring District Council Local Plan 2013-2033 and Beyond*” (eLP), which the main parties agree is in its infancy stages of adoption, and thus cannot be afforded anything other than little weight at the current time. Notwithstanding, the Council invites me to apportion greater weight to eLP policy SPL 1, in which it says adopts a settlement hierarchical approach consistent with the Framework, but also meets its objectively assessed housing need in full. While I am content to afford a greater degree of weight to the evidence underpinning the policy, which is in any event not disputed by the appellant, I do not find I can ‘cherry pick’ emerging policies and apportion individual weight to them as I see fit. I therefore agree with the main parties as set out in the Statement of Common Ground (SoCG) and afford the eLP as a whole, and accordingly eLP policy SPL 1, with little weight in my decision.

Whether promotes sustainable patterns of growth

11. The appeal site is open land which the main parties agree lies adjacent to, but outside of the settlement boundary of Ardleigh. Local Plan policy QL1 identifies Ardleigh as a ‘village’, which is ranked lowest in the settlement hierarchy pecking order as an area for housing growth, and permits only limited development consistent with local community needs. ELP policy SPL 1, which identifies Ardleigh as a ‘smaller rural settlement’ but similarly ranks it within its lowest tier for housing growth, states that development in such areas will be restricted to small scale increases only. The Council cites its reasoning for this approach on accessibility surveys to local services and facilities in which Ardleigh ranks poorly, and comparably much worse than other settlements which are similarly classified as smaller rural settlements in the borough.
12. Notwithstanding, the appellants identify a range of services and facilities within a 2km radius of the appeal site, which they say can be easily walked to. However, a proportion of these services are identified as the Millennium Green, the Village Hall and a Cricket Club and I am not particularly persuaded they would be frequently used or sought after in the same way as shops or schools. While I note the location of the primary school is only a short walk from the appeal site, I observed that the village in fact contains very few local shops, and no evidence is before me which suggests they are capable of sustaining everyday needs for the future occupiers of the development.
13. No party disputes that the nearest settlement where a larger choice of everyday services and facilities is provided lies in Colchester, which I am told lies approximately 8km distance away. It is also not disputed between any party that there are no dedicated cycle lanes that connect Ardleigh to Colchester, and this would seem to me to be therefore an unlikely preferred means of travel for the future occupiers of the proposed development. I note that bus services operate to Colchester twice hourly during the day and take about approximately 20 minutes journey time, such that travelling by bus would not necessarily amount to an insurmountable task. That said, having regard to the frequency and journey times as well as the scale of the proposed development involved, I am not persuaded that the future occupiers of the proposed development would find using the bus service to be an attractive means of travel on a regular and frequent basis, and little evidence is before me which persuades me otherwise.

14. The appellant has also identified a number of employment sites within the wider locality. However, little evidence is before me to suggest that these employers or sites, either individually or collectively, employ large numbers of people and/or recruit on a regular basis, so as to be considered as reasonable and accessible local employment opportunities and sites for the future occupiers of the proposed development.
15. In my judgement, the future occupiers of the proposed properties would be heavily reliant upon the need to travel outside of the village for almost all services and facilities, and for access to employment. I find that it is highly probable that the preferred means of travel would be by private motor car. Accordingly, I find that the appeal site cannot be said to be in a particularly sustainable location on that basis.
16. The proposed development would not accord with one of the core aims of paragraph 17 of the Framework, which states that planning and decision taking should actively manage patterns of growth to make the fullest use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable. The proposed development would also not accord with Local Plan policy QL1 and eLP policy SPL 1, details of which I have set out above, although I have apportioned only moderate and little weight respectively to these policies in my decision.

Other Matters

17. Concerns have been raised by residents in respect to the effect of the proposed development on the local highway network caused by increased traffic in the area. I note particularly that these concerns centre on the traffic flows along the A127 which passes through the village, as well as the conditions of Wick Lane, which is rural in character and devoid of street lighting and footpaths, and where the hedgerows along its length are protected in the Local Plan. However, insufficient evidence is before me which counters the appellants' evidence that the quantum of traffic generated by the proposed development would not amount to any significant harm. Neither the Council nor the County Council as the Highway Authority objects to the proposed development in this regard. On that basis, I have no reason to find that the proposed development would significantly worsen traffic flows to justify dismissing the appeal on that basis.
18. Concerns have also been raised in respect to the effect of the proposed development on the character and appearance of the area. I observed the appeal site from a number of vantage points along the surrounding roads as well as from a number of footpaths at the rear of the site close to the reservoir. I find the proposed development would be easily and readily visible from those locations, and that it is an inevitable consequence that development on a greenfield site particularly where it displays attractive qualities such as the appeal site does will cause harm to the character and appearance of the area.
19. The main parties agree that the proposed development would expand the number of dwellings in the village by some margin, but I do not necessarily find this is an objectionable matter per se. The appellant's masterplan approach and indicative layout includes sizeable areas of open space particularly at the site's rear towards the reservoir, as well as a landscaped belt alongside its western boundary with the open countryside. I am satisfied that the Council can ensure at reserved matters stage that an appropriate layout

and appearance of the dwellings, together with meaningful landscaping within the development itself, would ensure the proposed development would integrate successfully with its surroundings and would minimise the identified harm. The Council has not raised this as an issue.

20. Concerns have also been raised in respect to the ecological value of the site. But again I do not have conclusive evidence before me which casts considerable doubt on the appellants' evidence and findings contained within its ecological appraisal, supported by the Council, that any ecological designations, habitats of nature conservation interest or any protected species would not be adversely affected by the proposed development. The SoCG between the main parties states that suitable mitigation could be secured through planning conditions, and I have no reason to take an alternative view.
21. It is common ground between the main parties that the Framework does not seek to protect or prevent development on agricultural land, and insufficient evidence is before me which suggests that the loss in this regard would amount to significant harm. The Council does not cite this as an objectionable point, and I have no reason to find otherwise. I note the concerns of residents in respect to the capacity of the doctor's surgery. However, provision is made in the obligation before me for a financial contribution towards mitigation the additional pressure caused by the proposed development. While I note residents' assertions that the quantum proposed would not be sufficient, this is not supported in any evidence before me. I therefore have no reason to find the contribution would not meet the tests of the paragraph 204 of the Framework in this regard.

Planning Balance and Whether Sustainable Development

22. Bullet point 4(1) of paragraph 14 of the Framework is engaged because I have found that the Council cannot demonstrate that it has a five year supply of housing. Paragraph 14 of the Framework states that a presumption in favour of sustainable development exists and should be seen as a golden thread running through decision-taking. Where the development plan is absent, silent, or relevant policies for the supply of housing are out-of-date, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
23. The benefits of the scheme are self-evident. The proposed development would provide much-needed new dwellings to meet the needs of present and future generations and would make a sizeable and welcomed contribution to the Council's five year housing supply figures. The quantum of dwellings would assist considerably in addressing the Council's aims and objectives within the eLP to rebalance the ageing population in Ardleigh by attracting younger persons to the village. I specifically welcome the provision of affordable housing the proposed development would bring, given that recent developments in or near Ardleigh have failed to deliver affordable dwellings and that the borough as a whole has a deficit in affordable housing provision. The proposed development would also provide local construction employment opportunities and would support the few accessible local services in the village that I have identified. I attach great weight to all of these benefits.
24. However, the proposed development would not be sustainably located because the not insignificant numbers of future occupiers would be reliant on the need

to travel outside the village to access almost all of its local services, facilities and employment, and that the preferred means of travel to them would be by private motor car. The proposed development would not promote sustainable pattern of growth, as advocated by one of the core planning principles set out in paragraph 17 of the Framework.

25. In applying the tilted balance of bullet point 4(1) of paragraph 14 of the Framework, I find that the failure of the proposed development to promote sustainable patterns of growth, added to the inevitable effect to the character and appearance of the area from the loss of open countryside land, would amount to considerable harm, which would in my judgement significantly and demonstrably outweigh the benefits of the scheme which I have identified. The proposal would not amount to sustainable development in applying the Framework as a whole, and the balance lies against the scheme.

Conclusion

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

R Allen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms Katheryn Fitzgerald	Planning Consultant
Ms Danielle Bassi	Planning Consultant
Ms Sian Gulliver	Planning Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Gary Guiver	Planning Officer
Ms Leanne Nicholas	Planning Officer

INTERESTED PERSONS:

Mr Ian Blackford	Local Resident and member of Ardleigh Matters Action Group
Councillor Richard Everett	Ward Councillor representing residents
Mr Christopher Tootal	Local Resident
Mr Walter McGregor	Local Resident
Mr Clive Salmon	Local Resident
Mr Peter Benton	Local Resident
Mr Mike Deed	Local Resident
Mr Daniel Scatola	Local Resident
Ms Tina Bull	Local Resident

DOCUMENTS:

1. Transcript of speech and supporting evidence submitted by Cllr Everett
2. Photographs submitted by Mr McGregor
3. Transcript of speech submitted by Mr Salmon
4. Transcript of speech submitted by Mr Benton
5. Transcript of speech submitted by Mr Deed
6. Transcript of speech submitted by Mr Scatola
7. Transcript of speech submitted by Ms Bull