
Appeal Decision

Site visit made on 8 August 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 30th August 2017

Appeal Ref: APP/P1560/W/17/3173468

Willow Farm, Hilliards Road, Great Bromley, Essex CO7 7US

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Roger Craven against the decision of Tendring District Council.
 - The application Ref 16/01992/FUL, dated 1 December 2016, was refused by notice dated 27 January 2017.
 - The development proposed is new detached dwelling and detached garage/cartlodge for private use.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The emerging policies in the draft Tendring District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document have been referred to but these are at a formative stage and are still the subject of public consultation. I have therefore afforded them little weight.

Main Issue

3. The main issue is whether the proposal would provide a suitable site for housing, having regard to the adopted settlement strategy, the proximity of services and reliance on car based journeys.

Reasons

4. Policy QL1 of the Tendring District Local Plan 2007 ('LP') sets out a 'Spatial Strategy' for the period up to 2011. It requires that most new development be concentrated at the larger urban areas of Clacton and Harwich and development to be concentrated within the settlement development boundaries, as defined on the proposals maps. Outside these boundaries, only development which is consistent with countryside policies will be permitted. The proposal falls outside of such boundaries and there is nothing to suggest it accords with other such policies. In this respect there would be conflict with the LP.
5. The site is part of a larger site containing a series of barn buildings and overgrown shrubland. The existing 'Barrack Room' is a somewhat dilapidated timber outbuilding surrounded by overgrown vegetation and sited in the corner

of a larger and similarly overgrown paddock, adjacent to the existing access from Hilliards Road, a narrow rural lane.

6. Despite other buildings within proximity, the site is physically isolated and remote from local services and future residents would not be able to access a range of services and facilities on foot. Access to the nearest bus stop would be along an unlit and narrow rural road and across a private farm track. As such, future residents would be unlikely to perceive the route as safe or convenient especially during the evening and in inclement weather. Even then, I have no substantive evidence that this service is a regular or frequent one that would be attractive for future residents to make such a journey instead of using a private car.
7. I am mindful that the site is also close to the A120 and that the National Planning Policy Framework ('the Framework') advises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. However, residents would have little choice other than to be heavily reliant on car based journeys rather than more sustainable modes of transport for trips to and from shops, school, work, health, leisure and other day to day services and facilities further afield. The fact that the appellant may well currently travel to the site daily by car is not determinative as the comings and goings associated with a detached dwelling are likely to be much greater.
8. Furthermore, I have no meaningful evidence to suggest that the proposal would enhance or maintain the vitality of rural communities. Despite the presence of other development within proximity of the appeal site the proposal would result in a new dwelling in a functionally isolated location and there is no suggestion from either of the parties that the proposal would fulfil one of the special circumstances set out in paragraph 55 of the Framework.
9. For these reasons, the site would not be a suitable site for housing having regard to the adopted settlement strategy, the proximity of services and reliance on car based journeys. Accordingly, it would conflict with Policy QL1 which seeks to secure sustainable development by promoting and directing growth to the largest settlements requires recognition to be given to the intrinsic character and beauty of the countryside and to actively manage patterns of growth to make the fullest use of public transport, walking and cycling.
10. Although the blanket protection of the countryside is not supported by the Framework, I find that the policy is broadly consistent with it and would also conflict with the principle (included in paragraph 17) of actively managing patterns of growth to make the fullest use of public transport, walking and cycling and avoiding isolated homes and locating housing where it will enhance or maintain the vitality of rural communities.

Other Matters

11. The Council's second reason for refusal relates to a lack of a phase 1 habitat survey and that consequently, the Council is unable to say with confidence that the proposal will not affect protected species. Whilst the Council's evidence provides little clarification regarding this matter, given my findings in relation to the main issue the appeal does not turn on such matters. If the circumstances leading to a grant of permission had been present I would have given further consideration to this, however as I am dismissing the appeal on

the main issue above it is not necessary to consider this matter any further as it would not alter my decision.

12. I have also been referred to what the appellant considers is a comparable application¹. However, this relates to a Notification for Prior Approval under The Town and Country Planning (General permitted Development) Order 2015 (As amended) and it also relates to an appeal in a different local authority². Consequently, the considerations and judgements are not directly comparable to the proposal before me and in any event each case must be considered on its own merits.
13. My attention has been drawn to the appellant's contention that the use of the building was for residential in the early 1980's although there is no written evidence to 'back up this claim'³. Whatever the case may be, the lawfulness of such a use is not before me as part of an appeal made under section 78 of the Town and Country Planning Act 1990 and it is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal and it therefore does not alter my view.

Planning balance and overall conclusion

14. When the Council issued its formal decision it was unable to demonstrate a five year housing land supply. It has since stated in its submissions that it is now able to demonstrate a housing supply of 5.1 years. The appellant has not necessarily disputed this although doubts some of the evidence that underpins this conclusion. However, the limited evidence before me does not enable me to reach a definitive conclusive in relation to the housing land supply position.
15. Nonetheless, the proposal would appear to be on 'previously developed land' although there is nothing substantive before me concerning the appellant's intention to restore the site to a more natural condition. It would bring some minimal economic and social benefits and notwithstanding the housing land supply situation would also provide a minimal contribution to the supply of housing. However, I have found that the proposal would not be in a suitable location in terms of the adopted settlement strategy, proximity to services and reliance on car based journeys and overall it would not accord with the LP.
16. Even if I were to conclude there is a shortfall in 5 year supply and that the development plan is absent, silent or relevant policies are out of date and the presumption in favour of sustainable development as set out in paragraph 14 of the Framework applies, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole. As such the proposal would not therefore be sustainable development.
17. For the above reasons, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be made other than in accordance with the development plan.

¹ LPA ref: 3/2015/0027.

² Breckland District Council.

³ Appellant's Final Comments – letter dated 13 July 2017.

18. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR