
Appeal Decision

Site visit made on 27 March 2019

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th July 2019

Appeal Ref: APP/P1560/W/18/3210124

Land east of Clovelly, Pilcox Hall Lane, Tendring, Clacton-on-Sea, CO16 0DP.

- 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 A Black against the decision of Tendring District Council.
 - The application Ref 18/00007/OUT, dated 15 December 2017, was refused by notice dated 27 February 2018.
 - The development proposed is described as three detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The proposal is for outline planning permission and includes details relating to access and layout. Scale, appearance and landscaping are all reserved matters. The Appeal has been determined on this basis.
3. Since the Appeal application was refused the National Planning Policy Framework 2012 has been replaced. Both the Appellant and the Council have had the opportunity to comment on the National Planning Policy Framework 2018 and the National Planning Policy Framework February 2019 (Framework). In addition, they have had the opportunity to comment on the 2018 Housing Delivery Test results; the Updated guidance on how to assess housing needs and the 2018 based results of the ratio of median house price to median gross annual workplace based earnings for England and Wales. These documents have been taken into account in the consideration of this Appeal.

Main Issue

4. The main issue is whether the appeal site is in a suitable location for housing, with adequate access to services.

Reasons

5. The appeal site is situated within an enclave of linear dwellings and other buildings located towards the end of a narrow private lane (Pilcox Hall Lane). The majority of the dwellings are modest in form, size and height and comprise a mixture of detached and semi-detached dwellings occupying various sized plots. Due to the modest size and fragmented nature of this area of development, together with the absence of any local services within it, I concur with the appellant's description of it as an enclave of development, rather than a settlement.

6. The appeal site is located on the outside of a sharp bend in the road and comprises an irregular shaped parcel of grassland, which is partially screened from the open countryside to the south and east by boundary trees and shrubs. At the time of the appeal site visit a number of farm implements were sited on the land.
7. The Framework states that existing policies should not be considered out of date simply due to their age. Due weight should be given to them, according to their consistency with the Framework. The weight to be given to emerging Local Plan policies is dependent of the stage of the Plan's preparation and the degree of consistency between the policies with the Framework.
8. The Framework advises that the purpose of the planning system is to contribute to the achievement of sustainable development. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, having regard to local circumstances and the character, needs and opportunities of each area. With this in mind the Framework advocates a plan-led approach and states that planning policies and decisions should play an active role in guiding development towards sustainable solutions.
9. In relation to rural housing the Framework states that decisions should be responsive to local circumstances and support housing developments that reflect local needs. Housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
10. Policy QL1 of the Tendring District Local Plan 2007 (Local Plan) and policy SPL1 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft June 2017 (Draft Local Plan), set out the existing and proposed spatial strategy for the District. They seek to steer most new development to the larger urban areas and allow for more limited development within the settlement boundaries of smaller settlements. The smaller settlements are categorised according to their size and the range of services they offer. Whilst the Framework does not refer to settlement boundaries, it clearly refers to local needs and opportunities for villages to grow. It also states that Plans should contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals. I find that, in relation to the appeal proposal, the above policies are consistent with this and therefore give them significant weight.
11. Within the Local Plan, Tendring is identified as an "other defined village and rural settlement" where new housing development will take the form of infilling (1 – 3 dwellings). Policy SPL1 of the Draft Local Plan similarly identifies Tendring as a smaller rural settlement, where development should be restricted to small-scale schemes which respect the existing character and form of the village. This reflects the fact that the smaller rural settlements are modest in size, have a limited range of local services and so are the least sustainable locations for growth. The Council has stated that the growth envisaged for Tendring has already been permitted both within and through an extension of the settlement boundary. This village is located approximately 2.6 km from the appeal site by road and has a small range of community facilities including

a church, village hall, public house and a primary school on the outskirts of the village.

12. Tendring Green is located just under 1 km from the appeal site by road and includes very few community services and facilities. It comprises a small hamlet, whose housing is clustered around and between three roads arranged in a triangular pattern. The hamlet is identified in the Local Plan as having a Settlement Development Boundary and the Appellant has referred to a number of approved new housing developments around the edges of the defined settlement boundary of the hamlet since the beginning of 2016. Tendring Green is not however included in the list of smaller rural settlements with settlement development boundaries in the Draft Local Plan.
13. Policy SPL2 of the Draft Local Plan states that outside settlement development boundaries the Council will consider any planning application in relation to the Settlement Hierarchy and any other relevant policies in the Draft Local Plan. This is not restricted to any particular type of development and so could include housing.
14. The supporting text to policies SPL1 and SPL2 of the Draft Local Plan advise that outside the Settlement Development Boundaries, new development will be subject to strict control to protect and enhance the character and openness of the countryside. Despite this, sometimes there are certain forms of development that can and need to take place in these areas.
15. In relation to the Appeal proposal I find that the above policies are generally consistent with the plan-led approach and the economic, social and environmental objectives of sustainable development, as set out in the Framework. Accordingly, In accordance with paragraph 48 of the Framework I give considerable weight the Draft Local Plan policies referred to.
16. The Appeal site is not within or close to any defined Settlement boundaries, as defined in the adopted and draft Local Plans. The Appeal site has a wide road frontage and adjoins a wooded area to the east and woodland and pasture land to the south. To the west are two dwellings occupying spacious plots with further buildings beyond and to the north is the lane with a more intensive form of housing development beyond. Due to the fact that the Appeal site is located alongside two low density dwellings and adjoins pasture and woodland on two sides, the site does not appear as a logical infill plot. At the same time, it is not located within or adjacent to a settlement. Accordingly, it would not relate visually or add to the growth of any settlements.
17. As indicated above, by road the Appeal site is located just under 1 km to the southwest of Tendring Green and approximately 2.6 km from the Settlement Development Boundary for Tendring. Pilcox Hall Lane is narrow and devoid of any pavements or street lights and Marsh Lane has no street lights. In addition, together, Tendring and Tendring Green do not offer a wide range of community services and facilities and the Council has stated that the closest bus stop to the Appeal site is more than 700 metres away. The closest railway stations are several miles away and whilst the Appellant has referred to cycle routes in the area, little evidence has been provided to indicate their proximity to the Appeal site. For these reasons I find that the occupiers of the proposed dwellings would be reliant on private motor vehicles and would need to drive to larger settlements to access a wide range of services and potentially employment.

18. The Appellant has referred to a number of appeal and planning decisions relating to housing proposals outside the defined settlement boundaries. From the limited evidence submitted, they do not appear to be directly comparable to the Appeal scheme. In particular, some of the sites concerned were both located close to settlement boundaries and were within easy cycling and walking distance of an array of local services and public transport. One site was located some 1.5 km from a settlement with a broad range of facilities and services. The schemes around Tendring Green all adjoin or are immediately adjacent to the settlement policy boundary, close to bus routes and closer to Tendring. As such the schemes referred to are not directly comparable to the Appeal scheme.
19. For these reasons, I conclude on the main issue that the site is not situated in an accessible location or within a village/settlement and the proposal would conflict with policy QL1 of the Local Plan and policies SPL1 and SPL2 of the Draft Local Plan, which steer developments to more accessible locations.

Other matter

20. I note that the Council has expressed no concerns in relation to visual impact of the proposed scheme. I agree that due to the enclosed nature of the site and its proximity to other dwellings it would not have a materially adverse impact on the character and appearance of the surrounding area, subject to detailed design.
21. I am also satisfied that the proposal would not impact on the short or long term health of the preserved trees located close to the front boundary of the site, provided they were protected during the construction phase. Both of these matters could be satisfactorily dealt with through the imposition of conditions. In these respects, the proposal would comply with policies EN1, EN6 and QL9 of the Local Plan and policies SPL3, PPL3 and PPL4 of the Draft Local Plan. This is therefore a neutral factor in the consideration of this Appeal.

Planning Balance and Conclusion

22. I have found that the proposed development would conflict with the Council's settlement strategy and would not be sustainably located. For the reasons set out above I give the conflict with policy QL1 of the Local Plan and policies SPL1 and SPL2 of the Draft Local Plan, which steer developments to more accessible locations, significant weight.
23. The provision of three houses would make a modest contribution to the supply of homes within the District, which is a benefit of the scheme, although it is not stated that they would meet any identified local need. The proposal would result in some employment during the construction stage and the occupiers of the proposed dwellings would contribute to the local economy. These are considerations which would weigh in favour of the scheme.
24. On the other hand, the development would be in an unsustainable location and so the environmental objective of sustainable development would not be achieved. The proposal also conflicts with the Council's settlement strategy and development plan as a whole. This weighs heavily against the Appeal.
25. There is some dispute between the parties over whether or not the District has a deliverable supply of sites to provide a minimum five years supply and the extent of any shortfall. However, the lack of a five-year supply of housing does

not automatically lead to a grant of planning permission. Even if I were to conclude that there is a shortfall in the five-year housing land supply on the scale suggested by the Appellant, the adverse impacts of granting planning permission in this case would significantly and demonstrably outweigh the benefits of three dwellings on the Appeal site when assessed against the policies in the Framework taken as a whole.

26. The proposal would conflict with the development plan and this conflict is not outweighed by other material considerations, including the provisions of the Framework and paragraph 11 in particular. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the Appeal should be dismissed.

Elizabeth Lawrence

INSPECTOR