



Appeal Decision

Site visit made on 16 March 2020

by S M Holden BSc MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2020

Appeal Ref: APP/P1560/W/19/3238814

Land at rear of 62-68 Holland Road, Little Clacton CO16 9RS

- 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 Swain against the decision of Tendring District Council.
 - The application Ref 18/01585/OUT, dated 21 September 2018, was refused by notice dated 12 April 2019.
 - The development proposed is erection of eight bungalows.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was in outline with all matters reserved for future determination. However, an indicative layout showing how 8 dwellings could be accommodated on the site was submitted with the application. I have had regard to this in reaching my decision.
3. The Emerging Tendring District Local Plan 2013-2033 and Beyond (ETDLP) was published in 2017 and examined during 2018. The Inspector's findings raised concerns about the overall spatial strategy for the District which requires further work before the plan can be progressed. Consequently, only limited weight can be given to its emerging policies insofar as they relate to precise settlement boundaries. However, where other policies that are relevant to the proposal are consistent with the National Planning Policy Framework (the Framework), I have given them significant weight in my assessment of the scheme.
4. The appellant submitted a Unilateral Undertaking (UU) with the appeal. It set out offers of financial contributions firstly, towards improvements of play space and secondly, to address the effects of additional recreational disturbance on the Hamford Water Special Protection Area (SPA) and Ramsar site. These are matters I will return to later in this decision.
5. However, the Council was not satisfied that the UU has been completed correctly and would be effective as a planning obligation. I agree, due to the lack of certainty about Mr Swain's position as a Director of FBD Limited, which owns part of the site. In addition, the plan within the UU did not clearly identify the appeal site by red edging. This is particularly confusing as the boundaries shown on the land ownership plans are not contiguous with those of the appeal site. In these circumstances I am unable to take the UU into account in reaching my decision.

Main Issues

6. The main issues are:

- a) whether or not the site is a suitable location for residential development having regard to national and local planning policy for the delivery of housing;
- b) the effect of the proposal on the setting of Little Clacton, including having regard to the site's location within a Local Green Gap;
- c) whether or not the proposal should contribute toward the provision of public open space;
- d) the effect of the proposal on the Hamford Water Special Protection Area (SPA) and Ramsar site.

Reasons

Suitability of location

7. The appeal site is on the edge of the village of Little Clacton and to the south of existing ribbon development along Holland Road. Most of the site lies outside the settlement boundary of the village. However, it occupies a gap between bungalows that have recently been constructed immediately to the west and a concrete driveway that provides access to Swallow Farm.
8. Saved Policy QL1 of the Tendring District Local Plan, 2007 (TDLP) seeks to focus development towards the larger urban areas and within settlement boundaries. This principle is being carried forward in the ETDLP, as the village has been identified as a 'Rural Service Centre' with a range of local services that can meet some day-to-day needs of residents. It is therefore intended that the boundary of Little Clacton will be extended with a view to the settlement accommodating smaller-scale growth. Some development of this kind has already been taking place with the grant of planning permissions¹ for a series of small-scale residential schemes between the rear of properties in Holland Road and the Firs Park Caravan Park to the south.
9. In terms of access to the village, Holland Road has a continuous footway on its northern side. The site is therefore within walking and cycling distance of local facilities and there are bus stops nearby that provide services to Harwich, Thorpe-le-Soken and Clacton-on-Sea. Future residents would therefore not be entirely reliant on private transport to access the services and facilities they need, even if a car was the most convenient available choice.
10. For these reasons I conclude that, notwithstanding the site's location beyond the settlement boundary, a residential development of the site would not conflict with the aims of saved Policy QL1 of the TDLP or emerging Policy SLP1 of the ETDLP, both of which accept the principle of limited development in villages, to address local housing needs and support the village economy. A residential development would also accord with the aims of Paragraph 78 of the National Planning Policy Framework (the Framework), which seeks to locate housing in rural areas where it would enhance or maintain the vitality of rural communities.

¹ Ref: 15/01408/FUL, 15/0961/OUT, 17/02009/FUL and 19/00005/OUT

Setting of the village

11. Existing development on Holland Road is characterised by residential properties, many of them single-storey, on long narrow plots. The area immediately to the south of the appeal site currently remains open and undeveloped. I note that permission for an extension to the caravan park was granted in 2013, Ref: 13/01234/FUL. However, this is no longer extant, and my attention has not been drawn to any more recent proposal for this site.
12. Although the appeal site is not visible from Holland Road it is, nevertheless, a sensitive location due to its position on the edge of the built-up area. For a development of 8 dwellings on it to be acceptable, it is necessary for it to demonstrate adequate respect for the surrounding context in its entirety. The area to the west and north of the site is already developed. However, with the exception of the buildings associated with Swallow Farm, the area to the south and east is characterised by open, flat agricultural fields. It is these that provide the village with its rural setting.
13. I appreciate that the proposal is an outline application with all matters reserved. However, the indicative layout shows that plots would be small, rear gardens would be shallow and the dwellings would probably be set out in a regimented arrangement, typical of an urban development. The distance between the rear of the properties shown on Plots 4 and 5 and the rear of the newly completed bungalows on the adjacent site appears to be particularly small. A layout of this kind would therefore be out of character with the more spacious arrangement of properties elsewhere in the vicinity.
14. The indicative layout also shows that the site would be self-contained, would lack active frontages and would not be provided with any communal space. The dwellings would be orientated towards a vehicle turning area. The areas suggested for landscaping appear to be the space left over after providing for vehicles. The needs of vehicles have been put above those of people, rather than using the site to create an arrangement of streets, spaces and buildings thereby providing an attractive, welcoming and distinctive place to live. To my mind this combination of factors demonstrates that the proposal would not contribute to the creation of a strong sense of place, as advocated by Paragraph 127 of the Framework.
15. The site lies within a large area which has been defined as a Local Green Gap between Clacton-on-Sea and Little Clacton. Saved Policy EN2 of the TDLP seeks to keep Local Green Gaps open and essentially free of development in order to prevent coalescence of settlements. The supporting text to Policy EN2 refers to the separate identity of Little Clacton. However, the scale of the appeal proposal is such that it would have only a marginal effect on the gap between these two settlements.
16. However, Policy EN2 also seeks to protect the rural setting of the identified settlements. Even though the height of the dwellings could be controlled by condition, the combination of the new buildings with the widened access would be likely to result in a hard edge to the development. This would contrast with the areas immediately to the south and east which remain open and undeveloped. Consequently, there would be harm arising from the way in which development would encroach into the countryside that currently surrounds Swallow Farm.

17. Taking all these factors into consideration I am not persuaded that a scheme of 8 dwellings could be integrated satisfactorily with the existing linear pattern of development on Holland Road. Neither would it provide a suitable transition between the more densely developed area to the west, and the open countryside to the east.
18. I therefore conclude that the proposal would be a cramped, poor quality development that would harm the setting of the village, conflicting with saved Policies EN1, QL9, QL10 and HG3 of the of the TDLP (2007). These policies, amongst other things, require development to protect the setting and character of settlements and make a positive contribution to the quality of the local environment. In addition, there would be limited conflict with saved Policy EN2 of the TDLP, even though the proposal would not unacceptably erode the Local Green Gap between Clacton-on-Sea and Little Clacton. I also consider that the scheme would be contrary to the advice set out in Paragraph 127 of the Framework to establish attractive, welcoming and distinctive places to live.

Open space provision

19. Saved Policy COM6 of the TDLP (2007) states that for developments on sites of less than 1.5 hectares and where existing open space facilities are inadequate, a financial contribution towards the provision of new or improved off-site facilities will be required. The Council has identified a shortfall of play facilities in the area. A contribution is therefore sought to make improvements to equipment at Harold Lilley Playing Field.
20. The contribution would be based on the tariffs set out in the Council's Supplementary Planning Document: *Provision of Recreational Open Space for New Development, 2008*. The exact contribution could only be ascertained at reserved matters stage when the number of bedrooms in each of the proposed dwellings had been identified. Nevertheless, it seems to me that the requirement to contribute is reasonable and proportionate to the proposal.
21. Consequently, in the absence of a completed planning obligation to secure an appropriate contribution, I conclude that the proposal fails to provide adequate play space, the need for which has been generated by the development. It therefore conflicts with saved Policy COM6 of the TDLP.

Hamford Water SPA and Ramsar Site

22. The appeal site lies within the Zone of Influence of the Hamford Water SPA and Ramsar Site, which is a European Designated Site protected for its importance to breeding and non-breeding migratory birds including, amongst others, the Little Tern and Ringed Plover. The Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) requires the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected site, either alone or in combination with other plans and projects. This responsibility falls to me in the context of this appeal.
23. The Council has been working in partnership with other local planning authorities and Natural England (NE) to develop a strategy for protecting the habitats and the birds from recreational activities associated with occupants of new dwellings. The research underpinning this strategy has identified that any additional dwellings within an 8km Zone of Influence of the SPA would be likely to result in significant effects on the protected habitats and species.

24. I have been provided with copies of the *Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy* (RAMS), 2019, and a draft Supplementary Planning Document (SPD), dated January 2020, which sets out how it is intended that the RAMS will be implemented, including a requirement for contributions from all residential developments. This information would enable me to undertake an Appropriate Assessment (AA) and to consider the effectiveness of any contribution to mitigation measures that was offered.
25. However, as the UU submitted with the appeal was flawed, the contribution towards the mitigation measures was not secured. I therefore cannot take it into account in my assessment of the scheme. In these circumstances it has not been necessary for me to undertake the AA or address the matter further.
26. Consequently, I conclude that the proposal would adversely affect the integrity of Hamford Water SPA and Ramsar Site. It therefore conflicts with Policy EN6 and EN11a of the TDLP and the provisions of Regulation 63 of the Conservation of Habitats and Species Regulations.

Planning balance

27. The Council accepts that it cannot currently demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11(d) of the Framework is engaged, and planning permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits of the proposal.
28. The provision of 8 bungalows would make a small contribution to the supply of housing in the district. It would do so on a site which has access to a choice of travel modes and on the edge of a village which has a range of facilities. The scheme would deliver economic benefits, arising from spending by future residents and the creation of employment during the construction period. These are all factors that weigh in the scheme's favour.
29. However, as the shortfall in housing supply is modest (of the order of 4 years), I consider these social and economic benefits attract only moderate weight in the planning balance. The social benefits are further reduced by the lack of an adequate mechanism to secure a contribution towards improvements of local play space and which are a requirement of the development plan.
30. On the other hand, I have found that the proposal would fall short of making a positive contribution to the quality of the local environment by failing to respect its context and location on the edge of the village. This environmental harm is a factor to which I attach significant weight.
31. Taking all these factors into account, I conclude that adverse impacts of the proposal significantly and demonstrably outweigh the limited benefits, when considered against the development plan as a whole. The presumption in favour of sustainable development therefore does not apply in this case.
32. However, even if I had come to a different conclusion, I have found that that proposal would adversely affect the integrity of the Hamford Water SPA and Ramsar Site. Paragraph 177 of the Framework states the presumption in favour of sustainable development does not apply in such cases. Furthermore, Footnote 6 of Paragraph 11 includes specific reference to habitats sites as protected areas of particular importance and this alone would have provided a clear reason for dismissing the appeal.

Conclusion

33. I have concluded that the proposal conflicts with the development plan. There are no other considerations, including the advice of the Framework, that outweighs that conflict.
34. For this reason, the appeal is dismissed.

Sheila Holden

INSPECTOR