



Appeal Decision

Site visit made on 3 December 2020

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2020

Appeal Ref: APP/P1560/W/20/3255484

Tall Trees, Frating Hill, Frating, Colchester CO7 7DG

- 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 R Sothinathan against the decision of Tendring District Council.
 - The application Ref 19/01872/FUL, dated 9 December 2019, was refused by notice dated 6 February 2020.
 - The development proposed is 5 bungalows with associated parking, landscaping and access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has stated that it does not wish to defend its fourth reason for refusal concerning the effect of the proposal on European designated habitats because a unilateral undertaking that secures the necessary contribution towards mitigation measures has been provided.

Main Issues

3. The main issues in the appeal are:
 - i) the effect of the proposal on the character and appearance of the area; and
 - ii) its accessibility to services and facilities.

Reasons

Character and Appearance

4. Frating Hill is a rural road but there is a group of dwellings along one side of the road, in a linear pattern. These consist mainly of bungalows. Tall Trees is a two storey house which is set further back from the road than the adjacent dwellings. It has a very large garden which extends behind the adjacent property known as Cedar Lodge. Planning permission has been granted for a dwelling within the garden of Tall Trees and adjacent to Cedar Lodge.
5. The appeal site forms part of the garden which is to the rear of Cedar Lodge and the site of the approved dwelling and separated by intervening garden

- land. Access to the site would be via the existing drive to Tall Trees, which would also be shared with the approved dwelling.
6. The proposal would differ from the established layout in that it would be to the rear of the frontage development and accessed by a long drive. It would also be of a higher density than the frontage dwellings, which occupy quite large gardens. For these reasons it would be out of character with the established pattern of development.
 7. Because the development would differ significantly from the existing pattern, the Council could find it difficult to resist further development to the rear of the frontage development if the appeal were to be allowed.
 8. Furthermore, because the garden and the land to the rear are open and the development would be within this setting, it would be prominent and visually intrusive in the countryside.
 9. Because the site forms part of a residential garden, it is previously developed land. There are two outbuildings and areas of hard surfacing on the site. However, the proposal would be of much greater scale than those buildings and surfaces and would have much greater visual impact in the rural surroundings. The National Planning Policy Framework (the Framework) encourages the use of suitable brownfield land within settlements for homes but the site is not within a settlement.
 10. There are buildings to the east of Tall Trees which the appellant says are in commercial use. They are separated from the site by the garden of Tall Trees, however and this does not change my view regarding the visual impact of the proposal.
 11. I saw on my visit the tree line to the rear of the site and noted that this is set back from the rear boundaries of the frontage dwellings. The trees would contain the development and provide visual screening to some extent, but this would not be sufficient to overcome the visual harm.
 12. Saved Policy QL1 of the Local Plan (LP)¹ resists development outside the defined settlement development boundaries. The site lies outside those boundaries and the proposal does not accord with that policy. However, the Council cannot demonstrate a five year supply of deliverable housing sites. On this basis, the policy is out-of-date and limited weight can be given to it.
 13. Saved Policy HG13 of the LP imposes requirements in respect of backland development, all of which must be met. The first criterion requires such development to be within a settlement development boundary. In the absence of a five year housing supply this requirement is out-of-date.
 14. The other criteria of that policy are not out-of-date, however. Paragraph (iii) discourages long or narrow driveways and paragraph (iv) resists tandem development using a shared access. The proposal would not accord with those requirements. Because the site is separate from the adjacent development it would be fragmented and not in accordance with paragraph (v) of the policy. I have found that the proposal would be out of character in its setting and with the area. For these reasons it would not accord with paragraphs (vi) and (vii) of saved Policy HG13.

¹ Tendring District Local Plan (2007)

15. Saved Policies EN1 and QL9 of the LP also require development to protect or enhance local character. Those policies are not out-of-date and the proposal would not accord with them.
16. Section 2 of the draft Local Plan² has not been subject to examination. The Council has referred to a number of draft policies which have similar requirements to those of the LP. The draft policies carry limited weight however because they have not been examined.
17. For the reasons given, the proposal would be out of character with existing development and visually intrusive in the countryside. It would unacceptably harm the character and appearance of the area, and I give very significant weight to that harm.

Accessibility

18. There is a narrow footpath along the road and the appellant states that the site is about 1km from Frating. This is a walkable distance, but the facilities in Frating are limited. There are also bus services to Colchester and Clacton which run along the road and bus stops close to the site. The Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It is likely that occupiers of the proposed dwellings would be reliant on the private car for transport. However, access by sustainable means to employment, education, shopping and leisure facilities is available. This matter is neutral in the planning balance.

Planning Balance

19. I have been provided with a copy of an appeal decision³ of October 2019 in which the Inspector found that the housing land supply was roughly 3.7 years. The proposal would contribute 5 new dwellings towards the supply, but this scale of provision would be modest. There would be economic benefits from provision of employment during construction and from the future expenditure locally of the occupiers of the dwellings. I give moderate weight to the social and economic benefits of the proposal.
20. On the other hand, I have given very significant weight to the harm to the character and appearance of the area that I have identified. The proposal conflicts with up-to-date development plan policies. The harm and policy conflict significantly and demonstrably outweigh the moderate weight that I give to the benefits of the proposal.

Conclusion

21. For the reasons given, I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR

² Tendring District Local Plan 2013-2033 and Beyond Publication Draft

³ APP/P1560/W/18/3201067