
Appeal Decision

Site visit made on 1 December 2020

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State for Communities

Decision date: 21st December 2020

Appeal Ref: APP/P1560/W/20/3251890

35 Holland Road, Little Clacton, Clacton on Sea, Essex

- 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 Hubble against the decision of Tendring District Council.
 - The application Ref 19/01726/FUL, dated 12 November 2019, was refused by notice dated 20 February 2020.
 - The development proposed is demolition of existing bungalow and associated outbuildings and construction of 10No. bungalows, improvement of existing access and enhancement of existing landscape features.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application seeking a full award of costs against the Council has been submitted by the appellant. This application is the subject of a separate letter.

Procedural Matters

3. A completed Unilateral Undertaking was submitted with the appeal. This includes contributions for affordable housing, the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) and public open space. On receipt of this Undertaking the Council has withdrawn reasons 3, 4 and 5 included in its decision letter. I consider this Undertaking later in this letter.
4. Given the current stage of preparation of the emerging Tendring District Local Plan 2013-2033 and Beyond, I afford its emerging policies only limited weight.

Main Issues

5. The main issues are:
 - Whether or not the site is a suitable location for residential development, having regard to national and local policies
 - The character and appearance of the area, and
 - Whether the appeal scheme includes adequate infrastructure directly required for this proposed development including contributions required for the RAMS.

Reasons

Location of proposed development

6. The appeal site comprises a single storey detached property with a spacious rear garden. The site's northern edge is bound by a row of trees which run alongside a public footpath, beyond which is open countryside. Holland Road serves a spine of housing development which extends into the countryside on the eastern edge of Little Clacton.
7. The appeal scheme involves the demolition of the existing property to allow a new access road designed to serve 10 bungalows located in the existing rear garden. Along the north side of Holland Road the properties have rear gardens of varying size and several, including that serving the appeal site, wrap around others.
8. The appeal site is close to the centre of Little Clacton which allows access to a modest range of services and includes access to regular bus services to larger centres such as Harwich and Clacton.
9. The appeal site lies partially outside the settlement boundary of Little Clacton which runs through the site as defined by the Tendring District Local Plan 2007. Saved Policy QL1 requires new development to be located in the main centres in the District which allow good access by a choice of transport modes to a broad range of services. Outside these centres limited development in settlements such as Little Clacton will be permitted only if they are within settlement boundaries and consistent with community needs. This policy also seeks to restrict new development outside settlement boundaries unless it is related to the countryside.
10. The proposed scheme would include 10 units on a site in excess of 0.5ha which is defined as major development in Annex 2, the Glossary included in the National Planning Policy Framework (the Framework), and would include 3 affordable dwellings.
11. Whilst the site is partially located outside the settlement boundary, the form of development does not sprawl into the countryside, being contained by the public footpath and tree belt on its northern side. The site is well located for services. For these reasons, I conclude on this main issue that the appeal scheme is consistent with Saved Policy QL1 of the Tendring Local Plan 2007.

Character and appearance

12. The local area is characterised by low rise and low density development. The appeal site forms part of a large garden which extends around the rear of neighbouring properties.
13. The absence of development to the rear of the frontage properties along the north side of Holland Road allows the areas outside the settlement boundary to act as an area of transition to the open fields which lie immediately to the north. This physical context, important to the area's character, distinguishes the appeal site from those sites lying to the rear of properties on the south side of Holland Road where new small scale development has been permitted. These sites infill between the existing caravan park and tennis club.

14. The form of development proposed would extend across the whole of the rear garden of this property. The ten bungalows would be served by a 2 way access road located next to the flank boundaries of Nos. 33 and 37 Holland Road and which would extend virtually the whole depth of the site. The proposed bungalows would be arranged around a series of short turning heads.
15. The number of dwellings together with the form of development, involving large areas of hard surface, would contrast starkly with the area's open character. The development of a new road replacing a drive to a single dwelling would introduce a new and discordant element into the regular spacing of dwellings along this part of Holland Road. The road would afford clear views well into the site to Plot 2, located at the rear.
16. Whilst the appellant states that the scheme's design has been influenced by a landscape led approach, the amount of proposed development, its layout dominated by a series of vehicular turning heads and shallow areas of garden undermine this statement.
17. Although the appellant has stated that the site's boundaries could be strengthened with increased planting which could restrict views of the appeal scheme, the proposed scheme would still be clearly seen from the upper floors of Nos 37-45 Holland Road and from the road. This would result in harm to the area's character and appearance. This cannot be sufficiently mitigated through enhanced boundary treatment.
18. Whilst there are examples of small estate development on the south side of Holland Road these have a different context which relates to existing development to the rear, such as the residential caravan park or the tennis club on White Gate Court.
19. Although Saved Policy HG13 could allow, subject to a range of criteria, backland development, the appeal scheme would fail this policy to the extent that the proposal would be out of character with the local area. Both the form and scale of development proposed would contrast adversely with the area's open character in this area of land which lies partially outside the settlement boundary. For these reasons, I conclude that the proposal would adversely impact on the areas character and appearance, contrary to Saved Policy HG13 of the Tendring District Local Plan 2007.

Infrastructure

20. The appellant submitted a Unilateral Undertaking in respect of financial contributions towards public open space and affordable housing. However, as I am dismissing this appeal, I am not required to consider this Undertaking further.
21. The site lies in the Zone of Influence of a European Site covered by the Essex Coast RAMS which requires payment from developers to fund mitigation measures. A contribution in line with the RAMS is included in the completed Undertaking. If I were allowing this appeal an appropriate assessment would be required. However, as I am dismissing this appeal I do not have to complete this exercise.

Planning balance and conclusions

22. Both parties agree that in the absence of a 5 year housing land supply (5YHLS), paragraph 11d) and footnote 7 of the National Planning Policy Framework (the Framework) is implemented. I acknowledge that the Council may be moving towards an improvement in its housing land supply position identified through the Examination in Public for Part 1 of the emerging Local Plan, but this does not reflect the current position.
23. In these circumstances the Framework requires that the policies which are the most important for determining the application should be considered as out of date, and that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.
24. In the context of the development plan, I have found that Saved Policies QL1 and HG13 of the Local Plan are most important for the purposes of this appeal. Whilst I find no conflict with Saved Policy QL1, the appeal scheme is contrary to Saved Policy HG13.
25. Despite the shortfall in the 5 YHLS position I find that Saved Policy HG13 is consistent with Paragraph 127 of the Framework in supporting good design in new development.
26. Part of the social role of sustainable development as defined by the Framework would be achieved by this scheme, for instance through the delivery of new homes partially within the settlement boundary with access to local shops and services and with access to public transport. The scheme would include affordable housing and contributions to public open space and the Essex Coast RAMS.
27. The scheme would also make a contribution to the economic dimension of sustainable development during the construction phase, as well as through the additional spending power of 10 new households in local shops and services.
28. Nonetheless, ensuring that new development respects the character and appearance of an area is consistent with the Government's objectives to deliver a sufficient supply of new homes of good design, included in Paragraph 127 of the Framework.
29. I acknowledge that Paragraph 78 of the Framework seeks to provide opportunities for villages to grow and support local services but this has to be balanced against the harm which I find the proposals would incur to the area's character and appearance.
30. Accordingly, given my findings outlined above, concerning the form of development, the proposal would be contrary to the aims of the Framework to achieve development broadly compatible with the character and appearance of its surroundings.
31. Overall, I find that the harm arising would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework as a whole. Therefore, the proposal would not represent sustainable development. It would also not accord with the requirements of Saved Policy HG13 of the Local Plan.

32. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Stephen Wilkinson

INSPECTOR