
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: 31/12/2020

Appeal Ref: APP/P1560/W/20/3253753

Land adjacent to the west of George Mitchell Close, Great Bentley, Colchester

- 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 Irwin against the decision of Tendring District Council.
 - The application Ref 19/01852/OUT, dated 7 November 2019, was refused by notice dated 7 May 2020.
 - The development proposed is up to 15 houses, with garages, open space and planting provision with a new access from St. Mary's Road.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs is the subject of a separate decision letter.

Procedural Matters

3. Given the current stage of preparation of the emerging Tendring Local Plan 2013-2033 and Beyond, I afford its emerging policies only limited weight.
4. The appeal proposal is in outline with all matters reserved. For this reason, I have treated the layout plan submitted with the appeal, as for illustrative purposes only.

Main Issues

5. The effect of the proposals on:
 - The location of the site having regard to national and local policies
 - Requirements for affordable housing, and
 - The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy.

Reasons

Site Location

6. The site lies on the edge of Angers Green, a 'village' as defined in the Council's Spatial Strategy. It comprises part of a large field and its southern and eastern edges lie next to existing housing.

7. The appeal site lies outside the settlement boundary, 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 would allow good access by a choice of transport modes to a broad range of services. Outside these centres limited development in settlements such as Aingers Green will be permitted only if they are within settlement boundaries and consistent with community needs.
8. The appellant cites several other planning decisions either allowed on appeal or granted by the Council in respect of small schemes for sites in Aingers Green or surrounding settlements. However, these were for small scale development, in contrast to that proposed as part of the appeal scheme, which is for major development located at the far end of the village.
9. The appeal scheme represents major development, located beyond the settlement boundaries and does not include reference to how 15 new dwellings would be consistent with local community needs in line with Policy QL1. For this reason, I conclude on this main issue that the proposal would be contrary to Saved Policy QL1 of the Tendring Local Plan 2007.

Affordable Housing

10. The appeal scheme does not include social housing. This does not comply with Saved Policy HG4 which requires the delivery of 40% of all units to be affordable. However, the policy does include some discretion for decision makers from this figure to reflect low thresholds and density.
11. Although the Council's reason for refusal refers to the emerging policy, LP5 which requires only 30% of affordable housing as I afford the emerging plan limited weight the provisions of the adopted policy prevail for the purposes of this appeal.
12. No arguments have been advanced by the appellant as to why an exception to Saved Policy HG4 is required.
13. On this main issue, I conclude that the appeal scheme is contrary to adopted Saved Policy HG4 of the Tendring Local Plan as no provision has been made for affordable housing.

Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS)

14. The appeal site lies within a Zone of Influence of a European Site covered by the Essex Coast RAMS. If I were allowing this appeal an appropriate assessment would be required but as I am dismissing this appeal I do not have to complete this exercise.

Other Matters

15. The reasons for refusal include a reference to the transfer of public open space. It is unclear the requirements for this given that the scheme has been submitted in outline with all matters reserved. The only policy reference included is taken from the emerging local plan which I accord limited weight.

Planning balance and conclusions

16. 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. Whilst I acknowledge that the Examination in Public for Part 1 of the emerging Local Plan identified that the Council may be moving towards an improvement in its housing land supply, this does not reflect the current position.

17. 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.
18. In the context of the development plan I have found that policies QL1 and HG4 of the Local Plan are most important for the purposes of this appeal. I find that Saved Policy QL1 is broadly compatible with the Framework in directing new development to main centres but it seeks to protect the countryside from development unless it is consistent with the countryside. This runs contrary to Paragraph 170 of the Framework which adopts a more nuanced approach to the location of new development outside settlement boundaries. For this reason I accord only limited weight to the conflict of the appeal scheme with the adopted policy.
19. In contrast Saved Policy HG4 is consistent with the paragraphs 63 and 64 of the Framework in supporting the provision of affordable housing in major developments such as the appeal scheme. The appeal scheme can be distinguished from those decisions included in the appellants appendices as these were for smaller developments below the threshold requiring affordable housing. Accordingly, I accord significant weight to the extent of conflict between the appeal scheme with this policy.
20. 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 with access to public transport. 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 15 new households in local shops and services.
21. Nonetheless, the provision of affordable housing is consistent with the Governments objectives to deliver a sufficient supply of new homes as identified in section 5 of the Framework. Accordingly, given my findings outlined above, concerning the lack of affordable housing, the proposal would be contrary to the aims of the Framework to achieve sustainable development.
22. Overall, I find that the harm arising from the appeal scheme 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 not accord with the requirements of Saved Policy HG4 of the Local Plan in securing affordable housing.
23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Stephen Wilkinson

INSPECTOR