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## Appeal Decision

Site visit made on 28 September 2021

**by Julie Dale Clark BA(Hons) DipTP MCD DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 October 2021.**

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### **Appeal Ref: APP/A1530/W/20/3258564 Turnpike Close, Colchester C07 7QW**

- 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 Martin Spurgeon against the decision of Colchester Borough Council.
  - The application Ref 200241, dated 16 January 2020, was refused by notice dated 13 May 2020.
  - The development proposed is to erect 8 houses and an access from Turnpike Close.
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. The application is for outline permission with all matters reserved for later determination although a site layout has been submitted. Although not identified as being for indicative purposes, I have taken the submitted layout as an indication of how eight dwellings could be sited on the site with an access from Turnpike Close.
3. The appeal site relates to a piece of land off Turnpike Close and although I have quoted a postcode above, this is for ease of identification only. The site is described as being located at Grid Ref Easting: 602256 and Grid Ref Northing: 229680.

### **Main Issues**

4. I consider that the main issues are: -
  - the effect of constructing 8 new dwellings outside the settlement boundary;
  - the provision of affordable housing; and
  - the effect of the proposal on natural habitats.

### **Reasons**

#### *Settlement Boundary*

5. The site is referred to as being outside the settlement boundary of Colchester in the decision notice and reference is also made to the village of Langham. An extract of a plan has been submitted which identifies the site as being outside

the settlement of Langham. It comprises an area of overgrown land to the east of Turnpike Close.

6. Core Strategy<sup>1</sup> Policy SD1 establishes that Colchester will promote sustainable development and regeneration. Throughout the Borough, growth will be located at the most accessible and sustainable locations in accordance with an identified settlement hierarchy starting with regional centres, then district settlements and finally rural communities. The policy indicates that these are set out in an appendix but a copy of the appendix has not been submitted with the appeal documents. Policy ENV 1 establishes that the Council will conserve and enhance Colchester's natural and historic environment, countryside and coastline.
7. The site does not physically relate to a defined settlement but is located off a road comprising sporadic commercial and residential developments. At the time of my site visit, I observed some new residential development that appeared to have been constructed fairly recently and also development under construction. The character of the appeal site is mainly that of open land within a rural area and whilst it is currently largely screened from the road by vegetation along the site's boundary, it is clearly outside a settlement. As such, the proposal would introduce 8 new dwellings in conflict with Policy SD1 and ENV 1 and represent the encroachment of an urban development within a rural setting.
8. The appellant states that the Council does not have a five year supply of housing land but the Council states that it has. I note from the 2020 Housing Delivery Test Results<sup>2</sup> that Colchester has a five year supply. I do not therefore consider that there is justification regarding housing land supply to overcome development outside the settlement boundary and overcome the harm I have identified above.

#### *Affordable Housing*

9. The Council state that a contribution towards affordable housing should be secured and Local Plan Policy H4 indicates the Council's commitments to improving housing affordability in Colchester. Policy H4 refers to a requirement for affordable housing and in this case, reference is made to Langham where affordable housing is required. However, I am mindful that the site is described as being outside a settlement and submitted details show it to be outside of Langham. The appellant has indicated a willingness to make the necessary contribution however, whether or not a contribution is required, no mechanism has been put in place to secure this.

#### *Habitats*

10. The area is within the zone of influence for the East Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) and Natural England has indicated that recreational activity associated with new residential development could have an impact on habitat sites. Under the Conservation and Habitat Regulations, a development that would have a significant effect or an adverse effect (alone or in combination) on a Special Protection Area must provide mitigation. Development Plan<sup>3</sup> Policy DP21 requires the provision of

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<sup>1</sup> Colchester Borough Council Local Development Framework Core Strategy, Adopted December 2008.

<sup>2</sup> Ministry of Housing, Communities and Local Government 2020 Housing Delivery Test (HDT) Results published 19 January 2021.

<sup>3</sup> Colchester Borough Council Local Development Framework Development Policies, Adopted October 2010.

satisfactory prevention, mitigation and compensation measures where the proposal would cause adverse harm to nationally designated sites.

11. The proposal would involve 8 new dwellings which would have the potential to effect habitats through recreational pressures. The appellant has indicated a willingness to make the appropriate financial contribution but no mechanism has been put in place to secure this.

### **Conclusion**

12. No mechanism is in place to secure mitigation in respect to habitats or affordable housing and whilst these matters are material considerations, they have not been a determining factor in my assessment of this proposal.
13. My principal concern lies with the location of the appeal site in a rural area outside any defined settlement. This is clearly contrary to the Council's policies as set out above. I am not satisfied that the dispute over housing land supply is weighed in the appellant's favour. I have considered all other matters raised but none alter my conclusion.
14. I conclude that the construction of 8 new dwelling outside the settlement boundary would have a harmful effect on the rural area by introducing new development in the countryside contrary to the Council's policies. Therefore, the appeal fails.

*J D Clark*

INSPECTOR