

Appeal Decision

Site Visit made on 22 June 2021 by Emma Grierson BSc (Hons) MSc MRPTI

Decision by Martin Seaton BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2021

Appeal Ref: APP/P1560/W/20/3261157

Bonds Farm, Holland Road, Little Clacton CO16 9QE

- 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 K Byford against the decision of Tendring District Council.
 - The application Ref 20/00199/FUL, dated 21 January 2020, was refused by notice dated 14 April 2020.
 - The development proposed is one dwelling.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. Any comments which have been received have been addressed within the appeal decision.

Main Issues

4. The main issues in the appeal are:
 - whether the proposed development would provide a suitable site for a dwelling, including the proximity of services and facilities, and
 - the effect of the proposed development on the living conditions of future occupiers in relation to noise.

Reasons for the Recommendation

Policy Analysis

5. The Council have confirmed that the Development Plan is formed of the saved policies of the Tendring District Local Plan (2007) and the recently adopted Tendring District Local Plan 2013-2033 and Beyond: North Essex Authorities Shared Strategic Section 1 Plan (January 2021). Due to this recent adoption, the Council have confirmed that Policy QL1 of the Tendring District Local Plan

(2007) has been superseded by Policy SP3 of the Tendring District Local Plan 2013-2033 and Beyond (2021). However, the Council do not consider Policy SP3 relevant to this appeal. Policy QL11 has also been superseded in part by Policy SP7, however as it is not clear which parts have been superseded I will make reference to both. The Council have also indicated that Policies SP1, SP2, SP4 and SP6 of the Tendring District Local Plan 2013-2033 and Beyond (2021) are relevant to the appeal.

6. Section 2 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) constitutes the emerging plan, and is a material consideration to which only limited weight should be attached.

Suitable Site for a Dwelling

7. The appeal site is a haulage yard comprising several buildings and outdoor space for storage with gated access from Lodge Road. The site is located in a rural location to the east of the village of Little Clacton and to the north of the town of Clacton. There are several other commercial/agricultural premises and dwellings in the vicinity of the appeal site. The proposal would introduce a new chalet-style dwelling and a detached garage located to the north of the site with shared access through the haulage yard. This area of land is currently used for the storage of vehicles.
8. The appeal site is substantially outside of the defined settlement development boundary of Clacton and is also some distance from the closest village, Little Clacton. Policy SP6 of the Tendring District Local Plan 2013-2033 and Beyond: North Essex Authorities Shared Strategic Section 1 Plan (2021) states that all development must be supported by the provision of the infrastructure, services and facilities that are identified to serve the needs arising from the development.
9. Due to its remote location outside of any defined villages or towns, it is likely that the residents of the proposed dwelling would be reliant on regular travel to other settlements to access the necessary facilities and day-to-day services required. Given the location, it is acknowledged that in this instance the travel, as would often be the case for rural areas, would place a far greater reliance on journeys by private car, with the significant distance from the nearest town and village meaning it would be unlikely or convenient for trips, even for day to day needs, to be undertaken by sustainable means. It is also noted that the appeal site is not located in close proximity to any means of public transport and has no footpaths to allow for pedestrian access. Therefore, the appeal site is not supported by the provision of the infrastructure, services and facilities required by a dwelling nor is it within an accessible location in terms of proximity to services and facilities and would not be suitable for a dwelling.
10. It is noted that the appeal site is in close proximity to an area which has been allocated for residential use and that 250 dwellings have been approved, with the development also including a new bus route and footpath link. However, although closer, the appeal site would still not link to the services provided and there is no conclusive evidence to indicate that it will be fully constructed and completed as per the plans. Therefore, this development cannot be relied upon to provide facilities for the proposed dwelling. Furthermore, this development is wholly different to the appeal before me in terms of scale and provision of its own services and facilities, even though it is not within the settlement boundary.

11. In conclusion, the proposed development would not provide a suitable site for a dwelling and would be contrary to Policy SP6 of the Tendring District Local Plan 2013-2033 and Beyond: North Essex Authorities Shared Strategic Section 1 Plan (2021) as set out above. It would also be contrary to emerging Policy SPL1 of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) which outlines settlement hierarchy in the area.
12. Policy SP1, SP2 and SP4 of the Tendring District Local Plan 2013-2033 and Beyond: North Essex Authorities Shared Strategic Section 1 Plan (2021) are not relevant to this main issue.

Living Conditions

13. Due to the location of the proposed dwelling, in close proximity to the adjacent haulage yard and the commercial nature of this neighbouring site, the occupiers would experience some noise generated from this use. The Council have stated that, as a noise assessment has not been provided, it would not be possible to assess whether the noise would be significant enough to harm the living conditions of future occupiers.
14. Although the appellant has stated that the proposed dwelling would be occupied by the owners of the haulage yard, it is not possible to guarantee this by way of a condition and the appellant has not proposed to secure it by any other means. Therefore, the proposal must be considered as market housing. This would represent a different circumstance to that of the previously dismissed appeal scheme, where the proposal was for occupation by a rural worker with a claimed essential need for a dwelling in the countryside. Therefore, on the basis that the proposed dwelling would be independently occupied and in the absence of any evidence that there would not be significant disturbance, the occupiers of the proposed dwelling would be subject to noise from the neighbouring haulage yard which would result in harm to the living conditions of the future occupiers.
15. The proposal would therefore conflict with the saved Policy QL11 of the Tendring District Local Plan (2007) and Policy SP7 of the Tendring District Local Plan 2013-2033 and Beyond: North Essex Authorities Shared Strategic Section 1 Plan (2021). These policies state that new development should protect the amenity of future residents and the health, safety or amenity of any occupants of the proposed development will not be materially harmed by any pollution from an existing use. It would also accord with the similar requirements of Policy SPL3 of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017) and paragraph 130 and 185 of the National Planning Policy Framework.

Other Matters

16. Following the adoption of the Tendring District Local Plan 2013-2033 and Beyond: North Essex Authorities Shared Strategic Section 1 Plan in January 2021, the Council have now reported a surplus of housing land supply and a 6.5 year level of provision. As the appellant has not provided any comments regarding this updated housing land supply, this position is undisputed. Therefore, the provisions of footnote 8, paragraph 11 (d) of the National Planning Policy Framework are not engaged and the policies which are most important for determining the application are not deemed out of date.

17. It is understood that the owner of the haulage yard would occupy the proposed property, demonstrated by the shared access, and the appellant has stated that there is a need for the dwelling as a rural worker's dwelling to increase security and reduce travel to and from the site. However, no evidence has been provided to support this need and therefore it could not be afforded any significant weight and would not outweigh the harm found.
18. The contribution to the Council's self-build and custom build housing requirement is also noted, however limited information has been provided in this respect. It has been stated that the proposal would fully comply with Policy LP7 of Section 2 of the Tendring District Local Plan 2013-2033 and Beyond Publication Draft (2017). However, as outlined above, this is an emerging plan which can only be afforded limited weight. Therefore, in this circumstance, it would not outweigh the harm found.

Planning Balance, Conclusion and Recommendation

19. The proposed development would provide one additional dwelling along with a limited economic contribution arising from construction and the following occupation. However, due to the small scale of the development these benefits are minimal and would not outweigh the unsuitable nature of the site for housing and significant harm found to the living conditions of future occupiers. Therefore, there are insufficient benefits to outweigh the harm found.
20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Emma Grierson

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Martin Seaton

INSPECTOR