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## Appeal Decision

Site visit made on 30 November 2021

**by D Szymanski BSc (Hons) MA MRTPI**

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

**Decision date: 20<sup>th</sup> December 2021**

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**Appeal Ref: APP/P1560/W/21/3269780**

**The Twiggery, Chapel Road, Beaumont CO16 0AR**

- 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 David Lowe against the decision of Tendring District Council.
  - The application Ref 20/01391/OUT, dated 5 October 2020, was refused by notice dated 7 December 2020.
  - The development proposed is described as Outline planning application for the removal of a lodge and erection of a self-build dwelling within garden amenity and garage serving The Twiggery, Chapel Road, Beaumont, Clacton On Sea, Essex, CO16 0AR.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The original application was made in the name in Mr & Mrs Lowe. The appeal is made in the name of David Lowe only. The appeal proceeds on this basis, which is reflected in the banner heading above.
3. The application is made in outline with all matters reserved for future consideration. I have considered the appeal on this basis. I have regarded plans indicating the site access and layout as indicative only.
4. Since the application was determined the North Essex Authorities Shared Strategic Section 1 Local Plan (2021) (the S1LP) has been adopted, replacing some policies of the Tendring District Local Plan (2007) (the TDLP). The Council and the appellant have had the opportunity to comment upon the implications of this through the appeal process. The changes are reflected in my findings for each main issue below.
5. The revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021. I have given the Council and appellant the opportunity to comment upon the implications of this for their cases.
6. The appeal site lies within the Zone of Influence of Hamford Water Special Protection Area, Special Area of Conservation and Ramsar Site. The Council's third reason for refusal refers to the absence of a financial contribution to mitigate the effects of the development upon Hamford Water in accordance with the adopted Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (2020) (the Essex RAMS). A completed signed planning obligation has been submitted to secure a contribution towards mitigation measures. The

submitted planning obligation also includes an obligation seeking to secure the development as a self-build dwelling. I return to these matters later.

7. The Council's second reason for refusal relates to the absence of a financial contribution towards open space provision. I will return to this later.

## **Main Issues**

8. The main issues are:

- whether or not the proposed development would be in a suitable location having regard to policies concerned with the location of housing; and,
- the accessibility to services and facilities.

## **Reasons**

### *Location*

9. Policy SP3 of the S1LP states development will be accommodated within or adjoining settlements according to their scale, sustainability, and role in the area. Beyond the main settlements SP3 states the diversification of the rural economy and conservation and enhancement of the natural environment will be supported. Therefore, the S1LP seeks to direct development to more sustainable locations and settlements, and like the Framework, it does not impose a blanket restriction on development in the countryside.
10. Policy SPL1 of the S2LP lists the settlement hierarchy in which Beaumont-Cum-Moze is a Smaller Rural Settlement (an SRC). Section 3.2. of the S2LP explains growth needs to be carefully managed to not lead to unsustainable developments in remote and poorly accessible locations. It explains the settlement hierarchy prioritises locations with access to the strategic road network, public transport, and the potential to offer the widest range of services. Residents of SRCs are often reliant on neighbouring settlements for work, shopping, and services, frequently needing to travel to access them.
11. The Council informs me that Policy QL1 of the TDLP is superseded in part. However, there is no detail provided of how it can be only superseded in part, and not in full, so I will not conclude against QL1. Policy SP3 does not appear to define settlement boundaries. Under Policy QL1 the boundary was drawn around the consistent and relatively tightly knit dwellings east of Harwich Road. At my visit I noted the location of the junction with Harwich Road near where a village sign is located, marks a considerable change in character. To its west the pattern of development of more historic buildings along Chapel Road is much more sporadic and spaced out with some wide gaps of open rural land. So it appears the TDLP boundary was logically drawn.
12. The appeal site is approximately 540m west of the junction with Harwich Road, at the eastern end of row comprising a small number of loosely knit well-spaced dwellings. Given the limited number, their wide spacing including some long gaps, together with the absence of any signage in respect of a settlement and 30mph speed limits until close to the Harwich Road junction, the collection of buildings on Chapel Road does not in itself form a settlement.
13. Occupiers of the development might visit Beaumont for social reasons, use of the village hall and bus stop. However, the appeal site is separated from the concentration of development in Beaumont by some considerable distance by

surrounding open countryside with occasional farmsteads, enterprises, and dwellings. Therefore, the appeal site is a significant distance away from and physically not part of the settlement. The development also does not meet one of the exceptions set out in paragraph 80 of the Framework.

14. Policy SPL2 of the S2LP states outside of settlement boundaries applications will be considered in relation to the settlement hierarchy and any other relevant policies in the plan. Policy LP7 of the S2LP is supportive of single self-build proposals in the countryside in some circumstances. The appellant informs me the development is supported by criteria c). Although the appeal site may well constitute previously developed land, as garden land occupied by a temporary residential building which I am informed is occupied, it is neither vacant nor redundant. Therefore, even if it is not viable for an employment use, the site is not supported by Policy LP7.
15. For the reasons set out above the proposed development would not be in a suitable location having regard to policies for the location of housing. It would conflict with Policy SP3 of the S1LP which seeks to direct new dwellings to be provided at existing settlements. For this reason, it would conflict with the aims of paragraphs 15, 17 and 20 of the Framework which state the planning system should be plan-led through policies that set out priorities including an overall strategy for the pattern and scale of development. The development would also conflict with the aims of Policy SPL1 of the emerging S2LP insofar as this sets out a hierarchy of settlements to which new development should be directed, which given the S2LP is yet to be adopted, attracts limited weight.

#### *Services and facilities*

16. For the future occupiers walking approximately 150m to the farm shop is likely to be attractive and convenient. Notwithstanding the absence of verges and street lighting for part of the route, walking to the bus stops approximately 500m away may also be viewed as sufficiently attractive and convenient most of the year. These facilities, and the village hall and the playground in Beaumont, would provide few services and facilities for day to day needs. Journeys to other locations are likely to be frequently required.
17. Services such as the vehicle repair shops, auto parts store, tour operator and computer repair company at Oak Business Park would also provide for very few of the day to day needs of occupiers. Thorpe-Le-Soken, Weeley and Tendring benefit from facilities such as public houses, takeaways, a bakery, convenience stores, jewellers, hairdressers, opticians, a doctors surgery, a pharmacy, places of worship, primary schools, a college, a mechanical garage, filling station, railway stations and civic offices.
18. These three settlements therefore provide for more of day to day needs of occupiers. However, the combination of vehicle speed limit, absence of lighting, width and alignment of some roads, and distances to and between each of them would mean walking and cycling would neither be attractive or convenient. Public rights of way might make some journeys shorter and within the time range of the usual time spent per day walking<sup>1</sup> for those fit and able to do so. However, given the distance and surfacing, the approximately 70 minute round trip to Thorpe-Le-Soken would not be viewed as an attractive or convenient route for most future occupiers for many journeys.

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<sup>1</sup> Department for Transport Walking & Cycling Statistics for England: 2019 (August 2020)

19. Furthermore, for other retail outlets such as larger supermarkets, clothing stores, many professional and financial services, and wider employment opportunities, trips to larger settlements such as Clacton, Frinton-on-Sea and Walton-on-the-Naze are likely to be required. The significant distance to them means it is highly unlikely that future occupiers would walk or cycle to them. I have not been provided with information on the frequency and duration of bus services to such settlements. Therefore, I cannot conclude this would be viewed as a convenient or attractive option for most future occupiers.
20. The development is likely to result in a significant number of vehicular miles generated each year and associated emissions to access all necessary services and facilities. Simply because the appeal proposal would be a similar distance to services and facilities as dwellings nearby within Beaumont, does not justify permitting a new dwelling, likely to result in the generation of a significant number of vehicular miles per year from future occupiers.
21. The Lodge building provides family accommodation for those wishing to occupy the new dwelling, related to the occupiers of The Twiggery. The appellant advises me it is a temporary building yet there is no requirement to remove it. However, the application form describes the use of the appeal site as garden land. Therefore, the evidence before me is unclear. It does not demonstrate the appeal site benefits from a lawful permanent residential status that would off-set the harm from a new permanent dwelling. If this were the case it may also be somewhat at odds with some of the benefits the appellant has suggested such as, contribution to housing land supply (HLS), and vitality of some services. Therefore, based upon the evidence that has been provided, the occupation of the appeal site by the existing family attracts limited weight.
22. Appeal Refs. APP/P1560/W/18/3217198 and APP/P1560/W/19/3220201 appear a significant distance from this appeal site and determined when the Council could not demonstrate a 5 year HLS. Ref. 19/01346/FUL was for the change of use to six dwellings, with benefits of conserving and enhancing the significance of a redundant part of a heritage asset. The relevance of Ref. APP/P1560/W/18/3196412 is not clear, however, as that proposal was for up to 85 dwellings at Frinton-on-Sea, it differs significantly in respect of location and size. None of these examples are directly comparable to this appeal proposal, or justify allowing this appeal, which I have considered on its own merits.
23. For the reasons set out above the proposed development would not be well located for access to services and facilities. It would lead to significant harm and a conflict with Policy SP3 of the S1LP which seeks to direct new dwellings to sustainable locations. It conflicts with paragraphs 15, 17 and 20 of the Framework the relevant provisions of which I have referred to above. It would also conflict with the aims of paragraphs 8 and 105 which seek to use natural resources prudently, minimise pollution, and focus development towards locations that limit the need to travel.
24. As Policy SP1 of the S1LP relates to a positive and proactive approach in favour of sustainable development in decision making, it is of less relevance to this main issue than the policies referred to above.

### **Other Matters**

25. The Council's second reason for refusal relates to the absence of a financial contribution towards open space provision. However, the decision notice also

states the development would be unlikely to impact upon current facilities. As the development would not result in a benefit in respect of public open space provision, and the appeal is being dismissed for other reasons, I have not investigated this matter further.

26. The completed and signed planning obligation proposes a contribution towards mitigation measures in accordance with the Essex Coast RAMS, seeking to mitigate impacts from recreational disturbance from this proposal. It has not been put to me the contribution would have any benefits weighing in favour of the scheme. Therefore, in light of my findings on the main issues above, it is not necessary to look at this matter in detail.
27. The appeal site lies within the setting of Willow Cottage which is a Grade II Listed Building. Special regard should be given to the desirability of preserving the setting of Listed Buildings under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Council does not raise an objection to the principle of the outline application. As the appeal is being dismissed it is not necessary to consider this matter in detail.

### **Planning Balance**

28. At the time of determining the application, the Council could not demonstrate a HLS of 5 years. However, the annual housing requirement of 550 dwellings per year is now set through the adopted S1LP. On this basis the Council informs me it is able to demonstrate a 5 year HLS. There is no substantive evidence that would lead me to believe the Council's updated position is incorrect. Therefore, the tilted balance in paragraph 11d) of the Framework does not apply. However, a 5 year HLS does not represent a ceiling to delivery.
29. The Self Build and Custom Housebuilding Act 2015 requires Local Authorities to keep a register of those seeking to acquire plots for their own self-build and custom house building and give enough permissions to meet the identified demand for suitable serviced plots. The occupiers of the Lodge are on the Council's self-build register and there is no dispute between the parties the planning obligation would secure the dwelling as a self-build.
30. The Council informs me it has granted sufficient permissions to meet demand for each base period. I have not been presented with substantive evidence this is incorrect. The evidence before me, does not give me a reason to doubt the way the Council calculates available plots<sup>2</sup>. The current occupiers are younger family that have lived in the area for some time and have relatives nearby. This proposal would meet their self-build need. However, the evidence does not suggest anyone would lose their home as a result of my decision on this proposed new dwelling. It also does not demonstrate an absence of alternative suitable available plots. On balance, the social benefit, and contribution to supply from this one dwelling is a limited benefit, that I attribute limited weight.
31. The proposal would make a more efficient use of previously developed land, resulting in a small economic benefit during construction, once complete some small on-going spend in the local economy, and a small contribution to the vitality of rural communities and services. Through Reserve Matters submissions the development would be likely to secure some benefits to

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<sup>2</sup> APP/G2435/W/18/3214451

biodiversity. However, having regard to the nature of the proposal and the appeal site, these benefits are likely to be small. The overall benefits of the development are attributed limited weight in favour of the scheme.

32. A self-build dwelling might be built out quickly and might incorporate some resource and energy efficient methods of construction. Were I to agree the development is compliant or could be made compliant with policies in respect of matters such as space provision, highway safety, parking, detailed design, resource and energy consumption, these would be neutral matters in the planning balance. Notwithstanding the historic building pattern on Chapel Road, given the modest height, limited size, and limited visibility of the existing lodge the evidence does not demonstrate a new dwelling would overall, be beneficial to the character and appearance of the area, or in respect of energy and resource efficiency. Therefore, these are more of a neutral matter.
33. The development conflicts with the planned approach to housing in the development plan. Due to the location of the site, and distances from and locations of facilities and services, the development significantly conflicts with and would undermine sustainable transport and accessibility objectives of the plan and the Framework. The degree of harm and conflict with the policies is such that it attracts significant weight against the scheme. Therefore, the harm from the development significantly and demonstrably outweighs the benefits of the development when assessed against the policies in the Framework taken as whole. Therefore, the appeal should not succeed.

### **Conclusion**

34. The proposed development conflicts with the development plan and the Framework taken as a whole. There are no material considerations, including the policies of the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

*Dan Szymanski*

INSPECTOR