



Appeal Decision

Site visit made on 31 January 2022

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 15 FEBRUARY 2022

Appeal Ref: APP/P1560/W/21/3277014

Land east of No 26 Harwich Road, Ardleigh, Essex CO7 7LS

- 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 R Hilton against the decision of Tendring District Council.
 - The application Ref 21/00388/OUT, dated 22 February 2021, was refused by notice dated 14 March 2021.
 - The development proposed is the erection of one dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The appeal proposal seeks outline permission with all details reserved.
3. One of the Council's reasons for refusing permission related to the potential effects on internationally designated habitat sites. However, the appellant has now entered into an undertaking to make a contribution to the Council's emerging Recreational Disturbance Avoidance and Mitigation Strategy. The deed erroneously refers to the designated site at Hamford Water, rather than the Stour and Orwell Estuaries, but that is a matter that could have been corrected prior to the granting of any permission. On this basis, the issue of recreational disturbance is evidently no longer in dispute between the parties, and it is not necessary for me to comment further on it.
4. On 25 January 2022, the Council adopted Part 2 of the Tendring District Local Plan (TDLP) which now stands alongside TDLP Part 1, adopted in January 2021, to form the development plan for the area, superseding the saved policies of the previous district-wide local plan, adopted in 2007. An opportunity has since been provided for the parties to comment on the new policies relevant to this appeal.

Main issues

5. In the light of the submissions made, the main issues in the appeal are:
 - whether the appeal site is an acceptable location for the proposed development, having regard to the relevant planning policies for the location of new housing;
 - the development's effects on the character and appearance of the area;
 - and the effects on highway safety.

Reasons for decision

Planning policies for the location of new housing

6. In TDLP Part 1, Policy SP3 sets out the strategy for the location of new housing. Development is to be focussed on existing settlements, and accommodated within or adjoining those settlements, according to their scale and sustainability. In Part 2, Policy SPL1 defines a settlement hierarchy, in which Ardleigh is identified as one of the 'smaller rural settlements', which are defined as the least sustainable settlements for development. Policy SPL2 states that outside settlement boundaries, development proposals will be considered in relation to the pattern and scales of growth promoted through the settlement hierarchy.
7. The TDLP's explanatory text, at paragraph 3.3.2.1, states that the housing that is required for the District will be delivered on allocated land, or on sites within settlement boundaries. Paragraph 3.3.3.1 makes clear that development elsewhere is to be strictly controlled, to protect the character and openness of the countryside.
8. In the present case, the appeal site lies within an area of sporadic development, mainly comprising smallholdings and horticultural businesses, interspersed with paddocks, orchards, and occasional dwellings. The area is well outside the defined boundary of the village of Ardleigh. In terms of planning policy therefore, the site therefore falls within the countryside, where Policy SPL2 applies.
9. Whilst Policy SPL2 does not impose a complete prohibition on housing outside settlements, neither does it give any support to such development. When that policy is read in the context of Policies SP3 and SPL1 and the accompanying text, it is clear that the intention is to channel most housing and other development to sustainable locations. The appeal site is not such a location.
10. Having regard to the above suite of policies as a whole therefore, the appeal proposal is contrary to Policy SPL2, and in conflict with the TDLP's overall locational strategy. It follows that, in policy terms, the appeal site is not an acceptable location for the development now proposed.

Effects on the area's character and appearance

11. Policy PPL3, in Part 2 of the TDLP, seeks to protect the character and appearance of the District's rural landscape. Policy SPL3, requires new development to protect or enhance local character.
12. Notwithstanding the mixture of existing uses along this part of Harwich Road, as described above, the area is primarily rural in nature. The appeal site forms part of an area of rough grassland, trees and car parking attached to No 26 Harwich Road. Despite the hedge along the road frontage, the site is open to oblique views, in which the generally open character of this part of the countryside is evident. The proposed new dwelling would intrude into this open landscape and would have an urbanising effect on it. Any clearance of vegetation around the existing access, which the appellant appears to agree would be needed to improve visibility, would be likely to exacerbate this impact.
13. The development would therefore detract from the area's rural character, contrary to Policies PPL3 and SPL3.

Highway safety

14. The Highway Authority states that forward visibility along Harwich Road does not meet current safety standards. Harwich Road forms part of the A137 and carries a significant volume of traffic of all kinds. The speed limit allows vehicles to travel at up to 40 mph.
15. I appreciate that the site access already exists and serves other existing uses as well as the existing dwelling at No 26. However, there is no evidence as to its past safety record. In any event, the development now proposed would involve an intensification of the existing usage.
16. I note the appellant's claim that visibility of at least 2.4m x 120m can be achieved in both directions. However, the plan submitted to demonstrate that point is at too small a scale, and too lacking in detail, and therefore is not convincing.
17. In the absence of any clear evidence to the contrary, it seems to me that the proposed development would be likely to have an adverse impact on highway safety. In this respect the scheme would be contrary to TDLP Policy SPL3, which amongst other things requires new developments to meet various practical requirements, including safe access.

Other matters

18. The Council states that the District has a 6.5-year supply of housing sites. This claim is not disputed by the appellant. The 'tilted balance' provisions in paragraph 11(d) of the National Planning Policy Framework (NPPF) are therefore not applicable in this case.
19. The appellant draws my attention to a number of planning permissions granted for small housing developments on other sites in Harwich Road, either by the Council or on appeal. But all of these cases were determined before June 2021. Whilst I do not have any information as to the circumstances at the time of each of those decisions, there is no evidence to suggest that any of them was granted at a time when a 5-year supply could be demonstrated. And in any event, having seen the sites in question during my visit, I am satisfied that none is identical to the present appeal site.
20. The appeal scheme would be suitable for a self-build project or as a custom-build opportunity for a small local builder. But there is no evidence as to whether there is an unmet need for sites for this type of development, having regard to the numbers of applicants on the local Self-Build Register. Nor does there appear to be any formal commitment by the appellant to that type of development.
21. Harwich Road is served by several bus routes, connecting the appeal site to local facilities in Ardleigh, and also in the neighbouring village of Lawford, which would offer an alternative to the private car. But this does not outweigh the conflict with the recently adopted planning policies that I have identified. Planning law¹ requires that my decision must be made in accordance with the development plan, unless material considerations indicate otherwise.

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004

22. The development would bring some economic benefits, both during construction and afterwards, and would potentially contribute to the viability of nearby local communities and facilities. But again, this does not override the planning objections that I have found.

Conclusion

23. The proposed development would conflict with the District's spatial strategy, which aims to restrict housing development in the countryside. It would also cause harm to the area's character and appearance, and to highway safety. In both these respects, the scheme would fail to accord with the most relevant policies of the development plan. These objections are not outweighed by any of the other matters raised. The appeal therefore fails.

J Felgate

INSPECTOR