
Appeal Decision

Site visit made on 22 February 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 May 2022

Appeal Ref: APP/P1560/W/21/3278056

Land adjacent 59 Harwich Road, Lawford, Essex CO11 2LP

- 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 C Rowland and R Murfitt against the decision of Tendring District Council.
 - The application Ref 21/00783/OUT, dated 26 April 2021, was refused by notice dated 24 June 2021.
 - The development proposed is the erection of one dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant seeks outline planning permission with all matters reserved.
3. The Council's second reason for refusal refers to the effect of the proposed development on the Stour and Orwell Estuary Special Protection Area (SPA) and Ramsar Site. It also refers to the absence of a proportionate financial contribution to mitigate those effects. However, the appellant has subsequently provided a unilateral undertaking, which the Council accepts addresses this reason for refusal. I have therefore considered the appeal on this basis. However, it is not necessary for me to undertake an appropriate assessment, given that I am dismissing the appeal on other grounds.
4. On 25 January 2022, the Council adopted Section 2¹ of the Tendring District Local Plan (TDLP) which now stands alongside TDLP Section 1², adopted in January 2021. These two plans form the development plan for the area and supersede the previously saved policies of the Local Plan adopted in 2007. The Council has provided a list of Section 2 TDLP policies which it considers relevant to this appeal. The appellant has had an opportunity to provide representations in reply. In any case, the Council has not indicated whether or how the development would conflict with these policies. As such, I have not identified any conflict with Section 2 of the TDLP.
5. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). Both main parties have had opportunity to comment on the Framework and I have had regard to it in considering this appeal.

¹ Tendring District Local Plan 2013-2033 and Beyond: Section 2 – Adopted 24th January 2022

² Tendring District Local Plan 2013-2033 and Beyond: Section 1 – Adopted January 2021

Main Issues

6. The main issues are:

- Whether the site is a suitable location for the proposed development with regard to the Council's strategy for the location of new residential development.
- The effect of the proposed development on the character and appearance of the appeal site and surrounding area.

Reasons

Location of residential development

7. The appeal site is located on Harwich Road, adjacent to a semi-detached dwelling at 59 Harwich Road. The area is characterised by sporadic linear development with a rural countryside surrounding. The site is approximately 1km from Lawford (to the east) and 2km from Ardleigh (to the west).
8. TDLP Section 1 Policy SP3 sets out the broad strategy for the location of new housing in the district. It states that development will be accommodated within or adjoining existing settlements according to their scale, sustainability and existing role. Policy SP3 indicates that in Section 2 of its Local Plan each local planning authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs.
9. The Council has not sufficiently indicated whether the proposed development would conflict with any of the Section 2 TDLP policies. However, a copy of Policy SPL1, which sets out the settlement hierarchy, has been provided. This policy identifies Ardleigh as a 'smaller rural settlement' and Manningtree, Lawford and Mistley as a 'smaller urban settlement'. However, the appeal site is located well beyond the boundary of either of these settlements and as such is in the countryside in this regard. The site cannot therefore be considered to be either within or adjoining the settlements.
10. For these reasons, the proposed development would conflict with the strategy for the location of new residential development, as set out in the development plan. Namely, the aim to focus new housing in locations within or adjoining existing settlements. As such, regardless of the sites accessibility to services and facilities, the proposed development would conflict with TDLP Section 1 Policy SP3.
11. There would also be a conflict with Framework Paragraph 15, which emphasises that the planning system should be genuinely plan-led. The fact that the TDLP documents were only very recently adopted is of particular significance in this regard.

Character and Appearance

12. The appellant seeks outline planning permission with all matters reserved. As such, in terms of the visual impact of the development, matters such as appearance, layout, scale and landscaping would be considered at reserved matters stage. Nonetheless, the appeal site would be located between an existing semi-detached dwelling to the east and several plots associated with recently approved dwellings to the west. The site is partially screened from

Harwich Road by an existing row of trees with limited views possible when travelling from the east.

13. The development of the site for one dwelling, when read within the context of existing and planned³ development, would not necessarily be harmful to the character and appearance of the surrounding area. Within the context of existing and planned development, the site cannot be considered to be particularly open. Indeed, it would be possible to maintain the linear pattern of development in this location whilst respecting the surrounding rural character.
14. There are no development plan policies related to character and appearance cited in the Council's reason for refusal. However, the proposed development would not conflict with Framework Paragraph 130, which states in part that development should be sympathetic to local character.

Other Matters

15. The appellants' appeal statement indicates that the development plan policies are out of date, given their age and inconsistency with the Framework. However, the previous saved Local Plan (2007) Policies have now been replaced. Indeed, the development plan now includes TDLP Section 1 and 2, both of which have been found consistent with a recent version of the Framework. Furthermore, the Council can now demonstrate a Housing Land Supply (HLS) well in excess of five years (both main parties agree that the HLS position is more than 6 years). For these reasons Framework Paragraph 11dii is not engaged. Whilst it is recognised that demonstrating a 5 year HLS is not a ceiling for development, to grant planning permission on this site would undermine the emphasis on a plan-led approach to development, particularly given that both parts of the TDLP have only very recently been adopted.
16. The appellants have indicated that the proposed development would be a self-build dwelling. However, there is no mechanism before me (such as a planning obligation) to ensure that the dwelling would not be sold on the open market. Furthermore, there is no substantive evidence of a shortfall in self-build plots/development within the district. For these reasons, this factor only carries limited weight. The appellants have also referred to an appeal decision within the district⁴ where an inspector allowed an appeal for four self-build dwellings. However, in that case, the Inspector concluded that there was a HLS Shortfall. As such, this case is not directly comparable.
17. The appellants have referred to various Council and appeal decisions granting planning permission for residential development within the district. Many of these decisions relate to development on nearby plots of land on Harwich Road. However, all of these decisions were made based on the case and site-specific circumstances that applied at the time. Indeed, many of these decisions were made within the context of a HLS shortfall, whilst others were determined on the basis of the previous saved Local Plan (2007) policies. Both of those circumstances are now materially different with the adoption of the remaining part of the TDLP and the ability of the Council to demonstrate a HLS well in excess of 5 years. As such, none of the cases cited by the appellants alter my conclusions in relation to this appeal.

³ Planning permissions: 20/00053/OUT, 20/00687/OUT, 20/01630/OUT

⁴ Appeal Reference: APP/P1560/W/20/3246370

18. I note the appellants' reference to an appeal decision at the Fat Goose Public House⁵, in which the Inspector allowed an appeal for two dwellings the context of a 5 year HLS and an advanced emerging TDLP Section 2. However, it is clear that the TDLP Section 2 (despite being afforded significant weight) was not adopted at that time and that the quantum of development was greater than is proposed under this appeal. As such, the considerations which went to the weight to be afforded to the benefits of the development and the conflict with the development plan were different and this case does not therefore alter my conclusions.
19. The appellants have indicated that the site is in a sustainable location. Even if I accept that this is the case, the Framework and the development plan both aim to focus residential development towards sustainable locations. If the development meets such aims then this would carry neutral weight in this case.
20. The appellants also suggest that there would be social and economic benefits associated with the provision of one dwelling, including the efficient use of land, temporary construction benefits and support for the local economy as a result of an increased population. Whilst these are all benefits, they can only be afforded limited weight given the small amount of development proposed. As such, these are not factors which outweigh the conflict with the development plan.

Conclusion

21. The proposed development would not be harmful to the character and appearance of the surrounding area. However, compliance with the Framework in this regard would not outweigh the conflict with the Council's strategy for the location for new residential development. As such, the development would conflict with the development plan, taken as a whole and there are no other material considerations (of sufficient weight) to indicate a decision other than in accordance with it. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR

⁵ 3276761