



Appeal Decision

Site visit made on 14 June 2022

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th June 2022

Appeal Ref: APP/P1560/W/21/3282773

Land between Sangro & Bowtens, Colchester Road, Ardleigh

- 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 Lewis Black against the decision of Tendring District Council.
 - The application Ref 21/00203/FUL, dated 20 January 2021, was refused by notice dated 22 April 2021.
 - The development proposed is new two storey farmhouse dwelling and adjoining family annexe with private amenity space. A cart lodge will be utilised for parking and a stable block for equine housing and hay storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the Council's decision, the National Planning Policy Framework (the Framework) was revised on 20 July 2021. The Council and appellant have had an opportunity to comment on the implications of these changes through their submissions.
3. Since the Council issued its decision it has adopted Section 2 of the 2013-33 and Beyond Local Plan on 25 January 2022. Therefore, the 'development plan' for Tendring District Council now comprises the adopted Section 1 and Section 2 of the Tendring District Council 2013-33 and Beyond Local Plan (LP).
4. It is incumbent upon me to base my decision upon the most up to date planning policy and this is what I have done. The policies in the LP supersede some of those referred to in the Council's delegated report. The parties have had an opportunity to address these changes in policy.

Main Issues

5. The Council's notice of decision cited four reasons for refusal, the fourth of which related to harm to protected species. The Council have confirmed that they have reviewed the appellants evidence regarding the DNA testing of a nearby pond, which was submitted with the appeal, and that as a consequence the Council no longer wished to defend this reason for refusal.
6. The appellant has also submitted a duly executed unilateral undertaking in order to overcome the second and third reasons for refusal which I have taken into account. It provides for a Public Open Space Contribution to Tendring District Council and for a contribution towards ecological mitigation and I have contemplated this further later in my decision.

7. Therefore, the main issues are framed in the context of the Council's first reason for refusal and are:

- whether the site represents an appropriate location for the proposed dwelling, with reference to the spatial strategy in the development plan; and
- the effect of the proposed development on the character and appearance of the area.

Reasons

Location

8. Policy SP3 of LP sets out the spatial strategy for North Essex and directs growth towards existing settlements with development accommodated within or adjoining settlements according to their scale. Policy SPL1 identifies Ardleigh as a Smaller Rural Settlement and the supporting text to this policy identifies that these smaller villages are considered to be the least sustainable locations for growth, whilst recognising the pressures that exist for them to grow.
9. Policy SPL2 of the LP states that outside of settlement development boundaries, the Council will consider any planning application in relation to the pattern and scales of growth promoted through the settlement hierarchy and any other relevant policies in this plan.
10. The policies that I have set out are intended to ensure housing is located in areas which are accessible and sustainable but these policies do not prevent the development of land outside of settlement boundaries.
11. Ardleigh is a small settlement with some limited facilities and services which are unlikely to be capable of sustaining the everyday needs for the future occupiers of the development. Furthermore, given the distance from the site to these limited services I consider they would be more likely to travel to the services and facilities within the nearby town of Colchester.
12. There is a bus stop on Colchester Road and the appellant has provided a bus timetable which indicates that buses run intermittently throughout the day, with some services being within 45 mins of each other and some being less frequent. The services are less regular at the weekends. This provides a bus service to Colchester with journeys taking around 15 mins to the town. Whilst this would be an available alternative to the private car, having regard to their frequency, the bus service would be unlikely to be a realistic substitute to the convenience of a private car.
13. It is for these reasons that Ardleigh is identified as a smaller rural settlement within the LP which states that growth should be limited to the patterns of growth identified. Furthermore, policy CP1 of the LP sets out that proposals for new development must be sustainable in terms of transport and accessibility and should include and encourage opportunities for access to sustainable modes of transport.

14. I consider that the site is less than ideally located in terms of access to services, facilities and amenities and occupiers are likely to prefer the convenience of a private car. As a result, there would be minor negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services. This is an adverse matter to which I afford moderate weight.
15. It has been put to me that there would be some benefits associated with a reduction in the need for the appellants to travel to tend to their horses. However, there would still be travel associated with accessing the full range of community facilities such as shopping, healthcare, leisure and entertainment located within the nearest sizeable town. Therefore, this is a neutral effect in terms of the travel undertaken by the appellant.
16. The appellant has referred me to another appeal decision in Ardleigh, APP/P1560/W/20/3253927, which was allowed. However, this appeal was considered against the previous Local Plan and the Council had not advanced a case on the sustainability of the settlement. The recently adopted plan however identifies that the settlement is one which is the least sustainable. In addition, the Inspector acknowledged that the proposal resulted in harm to the integrity of the settlement strategy and this harm was weighed against the Council's lack of five year housing land supply. Therefore, I have given this decision limited weight.
17. In conclusion, the introduction of the proposed development into the appeal site, would fail to adhere to the relevant policies relating to housing in rural areas. It would conflict with policies SP1 and SP3 of the LP which seeks to direct development to the most appropriate locations and would also conflict with policies SPL1 and SPL2 of the LP which sets out the settlement strategy for Ardleigh. It would also fail to accord with policy CP1 which seeks to ensure sustainable transport options are available.

Character and appearance

18. The appeal site comprises a field located between two existing dwellings and whilst screened from the road by landscaping contributes to the rural appearance of this part of Colchester Road, which is characterised by linear development interspersed with pockets of undeveloped land. The dwelling Bowtens, whilst two storey, is effectively screened from the road by the existing hedgerow and takes its access from Lodge Lane and therefore has a limited impact upon the rural appearance of this part of Colchester Road.
19. Policy SPL3 sets out that all new development should make a positive contribution to the quality of the local environment, and protect or enhance local character. In addition, policy SP7 requires all new development to reflect the local character and context to preserve and enhance the quality of existing places and their environs.
20. The proposal would extend development along this part of Colchester Road and the introduction of a dwelling in this location would alter the character and appearance of this rural site. In addition, the proposed dwelling and associated outbuildings would lead to a more intensive use of the site. This would include an associated increase in domestic paraphernalia, thereby eroding the open and rural character of the immediate area.

21. Whilst the site is generally screened from public vantage points by existing landscaping, these would unlikely endure for the lifetime of the development with the need for the introduction of an access along the frontage of the site. Therefore, from these localised viewpoints the development would be noticeable and this urban form would extend development along Colchester Road into an area which is currently undeveloped. This would diminish and result in harm to the intrinsic character and beauty of the countryside contrary to policies SPL3 and SP7 of the LP.

Other Matters

22. The appeal site falls within the 'Zone of influence' for a designated habitats site. As the competent decision making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.
23. The appellant has submitted a unilateral undertaking which includes a contribution towards improved play facilities within Ardleigh. However, as I am dismissing the appeal for other reasons it is not necessary for me to consider whether the contribution is necessary to make the development acceptable in planning terms and is fairly and reasonably related to it in scale and kind or whether it would meet the tests for a planning obligation as set out in regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
24. I accept that government policy is supportive of self-build housing, with Paragraph 23 of the Planning Practice Guidance highlighting that authorities must give suitable development permission to enough suitable serviced plots to meet the demand for self-build and custom built housing in the area. However, whilst I acknowledge that the appellant is currently on the Council's Self Build Register, no firm evidence has been provided which demonstrates that the proposal would accord with the definition of self-build and custom housebuilding¹ and more importantly no mechanism is before me which would ensure that it would be so. I therefore attach limited weight to this matter.
25. Third party representations have also referred me to policy LP7 which permits proposals for small developments of new Self-Build and Custom-Built Homes on land outside of the settlement boundaries. However, in order to support a sustainable pattern of growth this relates to urban settlements and rural service centres. It also requires development to have no significant material adverse impact on the landscape or the form and character of nearby settlements. Therefore the proposal does not gain support from this policy.
26. The appellant has directed me to an appeal decision in the village of Tendring, APP/P1560/W/21/3276761. The Inspector noted the conflict with the spatial strategy but considered in that case that the conflict was negligible. This is not the same as the case before me and since that time the Local Plan has been adopted, and the emerging policies referred to in that decision are now adopted and have full weight. Therefore, I have given this decision limited weight.

¹ Defined by Section 1(A1) and (A2) of the Self-build and Custom Housebuilding Act 2015

Conclusion

27. The development would give rise to some economic benefits during the construction phase and provide limited support to local services. There would be modest social benefits arising from the contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area. There would also be limited benefits arising from meeting the appellants requirements for a self build home. However, these benefits are not of sufficient magnitude to outweigh the harm I have identified and the significant weight I afford to the conflict with the development plan in this instance.
28. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. For the reasons given above, I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR