



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/21/3278260

Land south of Addison Road, Great Holland, CO13 0HU

- 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 Mrs Antoinette Lawrence against the decision of Tendring District Council.
 - The application Ref 20/01782/OUT, dated 9 December 2020, was refused by notice dated 10 May 2021.
 - The development proposed is the erection of one dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original application was made in outline with all matters reserved to be considered at a later stage. I have dealt with the appeal on this basis and I have treated any details that are not to be considered at this stage as being illustrative only.
3. 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.
4. 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).
5. 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

6. The Council's notice of decision cited four reasons for refusal, the second of which related to harm to protected species. The Council have confirmed that they have reviewed the appellants submitted preliminary ecological appraisal which was submitted with the appeal and that as a consequence the Council no longer wished to defend the second of the four refusal reasons.

7. The appellant has also submitted a duly executed unilateral undertaking in order to overcome the third reason for refusal which I have taken into account. It provides for a contribution towards ecological mitigation and I have contemplated this further later in my decision.
8. Therefore, the main issues are framed in the context of the Council's first and fourth reason for refusal.
9. The main issues in this appeal are:
 - whether the site represents an appropriate location for the proposed dwelling, with reference to the spatial strategy in the development plan; and
 - whether the proposal would make adequate provision for public open space.

Reasons

Suitable location

10. Policy SP3 of the 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 Great Holland 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.
11. 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.
12. Although not a separate reason for refusal, the Council have within their delegated report set out concerns relating to the impact of the development on the landscape and reiterated these within their letter dated 16 March 2022. The appellant has therefore been aware of these concerns and had the opportunity to address these matters within their submission. In addition, the Council have directed me to the following relevant policies which would therefore need to be considered in connection with policy SPL2.
13. 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.
14. The policies that I have set out are intended to ensure housing is located in areas which are accessible and sustainable. However, these policies do not prevent the development of land outside of settlement boundaries provided it is not harmful to the character of the area.
15. The appeal site comprises an area of vacant land which is outside of the settlement boundary of Great Holland and is currently being used as grazing for horses. The site is accessed from Addison Road which serves a small number of other dwellings which front onto the appeal site.

16. Great Holland 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 and I consider they would be more likely to travel to the services and facilities within the smaller urban settlements of Kirby Cross and Frinton.
17. There is a footpath, with street lighting, which leads from the site and would enable pedestrians to access the small range of services within Kirby Cross. Despite these facilities I consider that occupiers of the proposed development would also have to travel onwards to the services and facilities within the nearby town of Clacton on Sea to access a wider range of shopping, healthcare, leisure and entertainment facilities.
18. A bus stop is present along Kirby Road which according to the evidence before me is served by four bus routes which provide services to Walton on the Naze, Frinton on Sea, Clacton Pier and Clacton Train Station. Whilst this would be an available alternative to the private car, I have not been provided with any details of the frequency of the bus service and therefore this leads to uncertainty that it would be a realistic substitute to the convenience of a private car.
19. Therefore, I consider that the site has limited access to services, facilities and amenities and having regard to the lack of evidence to demonstrate that there is a regular bus service occupiers are likely to prefer the convenience of a private car.
20. It is for these reasons that Great Holland 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.
21. Therefore, 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.
22. The proposed development would also introduce a dwelling opposite the existing dwellings on Addison Lane, into an area where no frontage development currently exists. This would intensify development along Addison Lane and represent a significant change from the dense hedgerow boundary that currently exists. The appeal site forms one corner of the existing field and the introduction of a dwelling in this location would result in an artificial subdivision of the site which would be highly visible when viewed from Hamilton Road. The development would therefore fail to protect or enhance the local character of the area.
23. 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 SP1 and SP3 of the LP which seeks to direct development to the most appropriate locations.

24. The development would also conflict with policies SPL1 and SPL2 of the LP which sets out the settlement strategy for Great Holland and would fail to protect or enhance local character contrary to policies SPL3 and SP7 of the LP. It would also fail to accord with policy CP1 which seeks to ensure sustainable transport options are available.

Provision of public open space

25. The Council are seeking a financial contribution towards improved play facilities in Great Holland and have referred me to Policy HP5 of the LP. This requires all new residential developments of 11 or more dwellings to provide open space on site and financial contributions for ongoing maintenance. It goes on to state that if new development would be better served by existing or proposed open space within an accessible distance a financial contribution may be sought towards any necessary improvement or expansion.
26. The Tendring District Council, Formal Open Space Audit, 2008 confirms that within the combined areas of Frinton, Walton & Kirby there is an overprovision of formal open space but a deficit of play areas. It then goes on to specify a number of existing play areas which require improvements but does not include a play area within Great Holland. Nor has the Council provided any evidence which identifies whether any of these improvements are still outstanding, noting the audit took place over 10 years ago. As such I have given this document limited weight in my consideration.
27. Great Holland is served by a single play area, located approximately 0.2 miles from the appeal site. The appellant advises that the play area is already well equipped and that a number of other schemes in the locality have made financial contributions towards improvements of this play area. The Council have not provided any details of what improvements or expansion would be necessary in order to accommodate the additional use generated by the proposed dwelling. Therefore, there is a lack of certainty as to how any contribution would be spent.
28. In conclusion, I cannot be satisfied that the suggested contribution is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related to it in scale and kind and therefore would not meet the tests for a planning obligation as set out in regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and due to a lack of identified need for any necessary improvement or expansion of the nearest play area there is no conflict with policy HP5 in this regard.

Other Matters

29. The appellants have referred me to another appeal decision, APP/P1560/W/20/3252825, for a development of five detached bungalows in the village of Bradfield, which is within the same district. In that decision the Inspector gave limited weight to the emerging policies, which are now adopted and considered the location of the development, outside of the settlement boundary against policies which are now superseded. In that case the Inspector identified a conflict with the Council's spatial strategy but concluded that the benefits arising from 5 additional dwelling outweighed that conflict. This is not the same as the case before me and therefore I have given this decision limited weight.

30. The appellants statement makes reference to the council's now adopted 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.
31. 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.

Conclusion

32. 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. 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.
33. 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