



Appeal Decision

Site visit made on 13 October 2022

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2022

Appeal Ref: APP/P1560/W/22/3290966

Land east of No. 60 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 Peter and John King against the decision of Tendring District Council.
 - The application Ref 21/00965/OUT, dated 20 May 2021, was refused by notice dated 21 July 2021.
 - The development proposed is described as "the erection of one dwelling".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since issuing its decision, the Council adopted Section 2 of the 2013-2033 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 2013-2033 and Beyond Local Plan (LP).
3. The planning application was submitted in outline form with all matters reserved for future determination.

Main Issues

4. The main issues in this appeal are 1) whether the location of the site is appropriate having regard to the development plan and, 2) the effect of the development on the character and appearance of the area.

Reasons

5. The appeal site forms a field that is currently laid to grass and bound to the front by a number of trees. To the west of the appeal site lies a pair of semi-detached dwellings, which includes the host property 60, Harwich Road. Further west of the appeal site are additional dwellings arranged in a linear manner along Harwich Road interspersed with glasshouses and other agricultural buildings. The surrounding agricultural land and open fields gives the area a generally semi-rural character.
6. Policy SP3 of the LP states that development will be accommodated within or adjoining settlements. As the appeal site does not lie within or adjoining the defined settlement boundary of Lawford, it is considered to be within the countryside. In such circumstances, Policy SP3 of the LP states that development beyond main settlements will be supported for the diversification of the rural economy and conservation and enhancement of the natural environment. From the evidence that has been provided, I am not persuaded that the proposal represents either.

7. Furthermore, although there is some debate over the level of housing the Council can currently demonstrate, it is evident that it is in excess of a five year supply of deliverable housing sites required by the National Planning Policy Framework (the Framework). In such circumstances, the application of the tilted balance at paragraph 11 of the Framework is not engaged and the policies considered most important for the determination of the planning application are considered up-to-date. Paragraph 12 of the Framework makes it clear that where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Moreover, the Framework states at paragraph 15 that the planning system should be genuinely plan-led.
8. The benefits relied upon (social, economic, and environmental) would not only flow from a house in this location, but they would also apply equally to a new house within a settlement boundary and thus, are not related to this specific site or development. Consequently, the suggested benefits do not outweigh the harm to the aims of adopted policy which seek to restrict development to within or adjoining identified settlement and conflicts with the aims of sustainable development in the Framework. Although I note the appellant's argument that the proposal represents sustainable development, this does not justify a deviation from development plan policies.
9. Additionally, the appeal site is close to an existing dwelling but clearly forms part of the surrounding countryside, to which it makes a positive contribution. The site lies to the east of existing residential dwellings and seeks the development of an undeveloped field, the corollary of which would result in the suburbanisation of the site and the erosion of the rural character and open visual qualities of the area. Moreover, I am not persuaded that Harwich Road has development focussed upon its entire length to the extent that a dwelling in this location would not harm the rural qualities that the appeal site currently provides and would be visible from Harwich Road.
10. Furthermore, along with the visual impacts of the proposal it is also necessary to consider the effects of the residential use of the site. This would include matters such as vehicle movements and parking associated with the development, fencing, domestic cultivation, and items such as garden furniture, external lighting and washing lines for the new dwelling, which would also have a suburbanising effect on the character of the area.
11. Thus, the location of the appeal site is not acceptable, and the development would result in harm to the character and appearance of the area. It would be in conflict with Policies SP3 and SP7 of the LP which seek, amongst other things, to direct developments to the most appropriate locations and to ensure that developments contribute to the quality of the local environment and protect or enhance local character.

Other Matters

12. I accept that housing targets are not a ceiling, and that the proposed dwelling would be a self-build unit. I also acknowledge the advantages of developing small sites and the role they can play in delivering housing. However, the harm I have identified above outweighs any benefits that a single dwelling in this location would provide.

13. In accepting the proposal at Windmill Road¹, the effect of the development on the character and appearance of the area was not a matter before the Inspector. Moreover, the site was adjacent to the settlement boundary on two sides, which is not the case before me. Additionally, the decisions at Weeley Heath², and No. 43 Harwich Road³ were made at a time when the Council could not demonstrate a five year supply of housing and the tilted balance at paragraph 11 of the Framework was engaged. Again, that is not the case before me.
14. Turning to the appeal at Tendring Green⁴, the Council did not refuse planning permission based upon the location of the site beyond a settlement boundary. The particulars of the case rested upon the effect of the development on highway safety, and upon the living conditions of neighbours. Moreover, although I acknowledge that planning permission for the erection of a dwelling was granted on a site close to the appeal site⁵, the Council make it clear that this sought the removal of a large amount of greenhouse buildings. Therefore, on balance, the Council considered this to be a material consideration that weighed in favour of the proposal.
15. The appellant also details other applications that have been approved close to the site, as well as other permissions in the vicinity. However, full details of the circumstances that led to these developments being accepted have not been provided, so I cannot be sure that they represent a direct parallel to this appeal proposal. In any event, the appeal has been considered on its own merits, which is a fundamental principle that underpins the planning system.
16. I have also had regard to paragraph 79 of the Framework, and the support that housing can provide to services in nearby villages. However, the support that a single dwelling could provide to such services in a nearby village would be limited. Therefore, in this instance, I am not persuaded that this represents a reason to find in favour of the development before me.
17. 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, and consider the unilateral undertaking provided by the appellant to secure contributions towards RAMS⁶. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Conclusion

18. Thus, I conclude that there are no material considerations of such weight as to indicate that a decision be taken other than in accordance with the development plan. Therefore, the appeal is dismissed.

Graham Wyatt

INSPECTOR

¹ APP/P1560/W/20/3252825

² APP/P1560/W/20/3246370

³ APP/P1560/W/18/3218683

⁴ APP/P1560/W/21/3281960

⁵ 20/01630/OUT

⁶ Essex Coasts Recreational disturbance Avoidance and Mitigation Strategy