



Appeal Decision

Site visit made on 17 October 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 31st October 2022

Appeal Ref: APP/P1560/W/22/3293772

Land adjacent to Comarques Farm House, Colchester Road, Thorpe-le-Soken, CO16 0LA

- 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 Mr J Butterfield against the decision of Tendring District Council.
 - The application Ref. 21/00853/FUL dated 18 June 2021, was refused by notice dated 19 November 2021.
 - The development proposed is 5 detached single storey dwellings with garages, access and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. As paragraph 2 of the National Planning Policy Framework (the Framework) points out, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. At the time that the appeal application was determined by the council, the adopted local plan consisted of the saved policies of the 2007 Local Plan and Section 1 (the more strategic policies) of the Tendring District Local Plan 2013-2033 and Beyond (TLP), which was formally adopted on 26 January 2021. Section 2 (more specific policies) of the TLP was then still under examination, but has since been formally adopted on 25 January 2022. Since an application should be determined in accordance with the development plan, it is the recently adopted plans that are my starting point in considering this appeal proposal.

Main Issues

3. The main issues in this case are: i) the suitability of the location of the site for residential development; ii) the effect of the development on the character and appearance of the landscape; and iii) whether provision should be made for affordable housing.

Reasons

4. The site is located on the south-western side of Colchester Road, to the north-west of Thorpe-le-Soken. It consists of agricultural land that has recently been in arable cultivation adjoining the curtilage of Comarques Farmhouse, a 50s/60s 2-storey dwelling. To the north-east of Colchester Road there is a

mixture of bungalows and houses. To the south-west of the site runs public footpath 180, beyond which is open countryside.

The suitability of the location of the site for residential development

5. As noted in my preliminary remarks above, both Section 1 and Section 2 of the TLP have been formally adopted. The inset B25 for Thorpe-le-Soken shows the Settlement Development Boundary at Vicarage Lane, the nearest point to the appeal site, about 260m from the south-eastern point of the site on Colchester Road. Thus the site is within the countryside, literally and in policy terms.
6. There is sporadic development in the vicinity of the site, which suggests that, in terms of planning policies and decisions, contributing to and enhancing the natural and local environment by *"recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;"* (174b of the Framework) there should be considerable emphasis on resisting further urban development in this locality.
7. Policies SPL1 and SPL2 are in the newly adopted Section 2 of TLP. Policy SPL1 – 'MANAGING GROWTH' sets out the Settlement Hierarchy for the district. Within this hierarchy Thorpe-le-Soken is designated a Rural Service Centre. The explanatory text to this policy includes the following statement:
"In general terms, development outside of defined Settlement Development Boundaries will be the subject of strict control to protect and enhance the character and openness of the countryside. However, there are certain forms of development that can and sometimes need to take place in these areas, some of which can bring about positive outcomes for the rural economy"
I have not had my attention drawn to any further policy statement that enlarges on the final sentence of this statement.
8. Policy SPL 2 – 'SETTLEMENT DEVELOPMENT BOUNDARIES' states (as relevant here):
"To encourage sustainable patterns of growth and carefully control urban sprawl, each settlement listed in Policy SPL1 (with the exception of the Tendring Colchester Borders Garden Community) is defined within a 'Settlement Development Boundary' as shown on the relevant Policies Map and Local Map. Within the Settlement Development Boundaries, there will be a general presumption in favour of new development subject to detailed consideration against other relevant Local Plan policies and any approved Neighbourhood Plans.
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 in Policy SPL1 and any other relevant policies in this plan".
9. Since TLP Section 2 has only recently been found sound, which includes meeting the requirement to be consistent with national policy [d) paragraph 35 of the Framework] it follows that its policies are in line with the Framework.
10. I therefore consider that the location of the site in the countryside means that, in policy terms, development outside the development boundaries should be

resisted unless there are relevant policies or other matters that suggest otherwise. In this connection, I note that the council reports a comfortable surplus of housing land supply over the 5 year requirement. The 'titled balance' at paragraph 11 d) ii) of the Framework therefore does not apply. The appellant does not directly challenge this, except to suggest that the delivery of some of the land over the plan period is questionable, including due to the costs of providing essential infrastructure. However, there is no evidence to support this contention.

11. I am led to the firm conclusion on this issue that the site is not a suitable location for residential development.

The effect of the development on the character and appearance of the landscape

12. The council considers that the site is in an important gap between existing dwellings that form part of an open and rural transition into the built form of Thorpe-le-Soken. The Landscape Management Strategy for the Holland Valley System Local Character Area sets the aim to conserve the rural undeveloped character of the valley and to resist urban or suburban development into the valley. It recognises the scattered pattern with loose knit groups of roadside cottages and farms and identifies the need to resist infill or incremental development on the edges of settlements that would change their character.
13. This accords with my appreciation at my site visit that I set out in paragraph 6 above. The site is within an important and vulnerable gap in the transition from the built form of Thorpe-le-Soken and the surrounding countryside and the proposed development would be contrary to Policies SPL3 and PPL3 of TLP. This carries substantial weight.
14. The development therefore would amount to an unplanned advance of urbanisation into open countryside which would be detrimental to the character and appearance of the landscape in this location. Whilst the proposal shows a 'woodland copse' along the boundary with footpath 180, comprising native species, and the appellant considers that the development would only have a minor effect on the overall landscape areas of the 'Le Soken Clay Plateau and Holland Valley System', I find that the development would have a detrimental effect on the character and appearance of the landscape.

Whether provision should be made for affordable housing

15. When the appeal application was first validated, the council's officer did not recognise that it was for 'major development'; this was because of the size of the site, not the number of dwellings proposed. As a result it was only later corrected, but it would seem that a legal obligation to deal with off-site provision, in accordance with policy, was not sought. The appellant states that a completed s106 obligation will be provided, but I am unaware of this having been done. However, since I am dismissing the appeal, I have decided that it would not be appropriate to pursue the matter further. But I do note that s106 unilateral undertakings have been entered into in respect of open space provision and recreational impact mitigation.

Conclusions

16. Whilst there are almost always public advantages arising from the provision of new housing as a social benefit, as short term economic benefit during the construction period, the environmental consequences in this case that planning

policies seek to avoid, are overriding. I have come to the clear conclusions that the site is not a suitable location for residential development and that the development would have a detrimental effect on the character and appearance of the landscape. I will therefore dismiss the appeal

Terrence Kemmann-Lane

INSPECTOR