



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/21/3287456

Old Larges Farm Yard, Main Road, Great Holland, CO13 0NG

- 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 Mr A H Brown, A H Brown Farms against the decision of Tendring District Council.
 - The application Ref. 20/01543/OUT dated 26 October 2020, was refused by notice dated 3 June 2021.
 - The development proposed is the erection of 3 single storey dwellings.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application was submitted in outline with only access being for consideration at this stage. The reserved matters are thus appearance, landscaping, layout and scale. In this connection the application was accompanied by drawings showing layout and floorplans/elevations, but these are indicative of the nature of the development should permission be granted. There is no objection to the proposal on the basis that the access to the site has shortcomings.
3. 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 TLP was then still under examination, but was formally adopted on 25 January 2022. Since applications 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.
4. The second reason for refusal of the application concerned the effect of the proposed development in respect of recreation disturbance on the Colne Estuary Special Protection Area (SPA) and Dengie SPA and Ramsar designated sites and a deficit in open space and play facilities. In the absence of a Unilateral Undertaking to address the necessary contributions, in accordance

with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy and the Council's Open Space and Play Supplementary Planning Documents, the proposal would be contrary to development plan policies and the policies of the Framework. However, with the appeal documentation there has been submitted a s106 legal agreement that deals with these matters. The council is satisfied that this addresses the second reason for refusal.

Main Issue

5. As a result of the matters dealt with in paragraph 4, there remains a single main issue: the suitability of the location of the site for residential development.

6. Reasons

7. Policy SPL1 of the now adopted Section 2 of TLP sets out the proposed Settlement Hierarchy for Tendring. Within this policy Great Holland is identified as a 'Smaller Rural Settlement'. The supporting text explains that such settlements within the District's rural heartland have much less in the way of job opportunities, local services, facilities and other infrastructure, and that their residents are often reliant on neighbouring towns and villages for work, shopping and other services and frequently need to travel distances more often than not by private car. The policy allows for such villages to achieve a small scale increase in housing stock, and the 'Settlement Development Boundaries' have been drawn accordingly.
8. Policy SPL 2 includes the statement "*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*". The supporting text explains "*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*".
9. Great Holland has its settlement development boundary divided into 2 areas wherein the bulk of existing development in Great Holland is clearly concentrated. Larges Farm and the appeal site are outside the boundary of either part of the settlement, the appeal site being close to the centre of the gap between them. This gap was designated as a 'Local Green Gap' under Policy EN2 of the now superseded saved policies of the 2007 Local Plan. There is no similar designation under TLP Policy PPL6, the council considering that other Local Plan policies can satisfactorily control development within these areas.
10. Having set out what I consider to be the main development plan policies that are germane to this appeal, I am satisfied that their effect is to be restrictive of development in the countryside unless there is a particular need for a countryside location. Support for development in such a location might come, for example, from the 'tilted balance' arising from Framework paragraph 11d)ii, but the council states that it can demonstrate a 6.5 year supply of housing land. This is not disputed, although the appellant points out that the housing requirement is not a ceiling. That point is true, but since TLP has only recently

been adopted as a result of being found sound, it clearly has the primacy of the legislative requirement expressed in Framework paragraph 2, and as paragraph 12 points out, *"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted"*.

11. I therefore turn to the appellant's arguments in support of the appeal, which I can state in brief. Great Holland benefits from a reasonable level of sustainability with regular bus services running from immediately outside the appeal site providing access to higher order settlements, including those with rail services. The local train stations in nearby Kirby Cross and Frinton-on-Sea also provide sustainable transport routes to larger settlements including Colchester and London beyond. The local public house is now open, having been bought by community purchase, with plans to develop an enhanced community offer, including local shop and possibly a post office. There are play facilities nearby in Pork Lane where planning contributions could enhance the facilities. Great Holland also has a church, village hall and farm shop. Further residential development in this location would therefore support the vitality and vibrancy of the area.
12. Taking these matters into account, it is also asserted that potential future occupiers of the proposed dwellings would not necessarily be wholly reliant on the use of a car in order to access the services and facilities reasonably likely to be required to meet their residential needs. It is also maintained that support is given by paragraph 79 of the Framework, which states *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities"*. The appellant suggests that the proposed development would meet this statement, particularly by assisting younger people to continue to live in the area, keep local shops and services viable and help bring balance to any ageing population.
13. These arguments all carry a degree of merit, but do not outweigh the clear policies of the recently adopted development plan. A danger of making an exception is illustrated by the fact that the appellant prays in aid that the appeal site sits immediately adjacent to 4 dwellings previously approved, and that the appeal site would be a natural extension of this built form. I also understand that these dwelling were permitted under the 'tilted balance' when the council could not demonstrate a 5-year housing land supply, and taking other favourable factors into account. I also note the reference to a permission next to Larkswood, but I am given no information about the reasons that lay behind that decision. I am not persuaded by these matters or by the fact that the land is no longer farmed.

Other matters

14. The planning statement that accompanied the appeal application referred to a number of appeal decisions which relate to different developments on other sites. I am not aware of the precise circumstances of these cases, they pre-date the TLP and I am told that they were determined at a time when the Council could not demonstrate a 5-year supply of housing land. Therefore very little weight can be placed on them.

Conclusions

15. The proposal is for development in a countryside location beyond the Settlement Development Boundaries of Great Holland. I conclude that the proposed development would harm the landscape setting of the narrow gap between the 2 areas of the village. As such the appeal site is not a suitable location for residential development, and to permit the development would be contrary to the development plan Policies SP1 and SP2. The appeal will therefore be dismissed.

Terrence Kemmann-Lane

INSPECTOR