
Appeal Decision

Site visit made on 30 January 2023

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2023

Appeal Ref: APP/P1560/W/21/3276249

Rose Farm, 75 Hungerdown Lane, Lawford CO11 2LX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Georgie, Karen and James Roadnight against Tendring District Council.
 - The application Ref 21/00424/FUL, is dated 26 February 2021.
 - The development proposed is erection of 1no. rural workers dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council has submitted a statement of case which sets out its putative reasons for refusal. These constitute the matters of disagreement with the appellant, and they therefore form the main issues in this case.
3. The description of the proposal varies from the application form to the Council acknowledgement letter. That on the application form adequately describes the proposal and I have determined the appeal on this basis.
4. The evidence indicates that the Tendring District Local Plan 2013-2033 and Beyond Section 1 North Essex Authorities' Shared Strategic Section 1 Plan (2021) (NEASSS) and the Tendring District Local Plan 2013-2033 and Beyond Section 2 (2022) form the development plan for the area replacing the Tendring District Local Plan (2007). I am required to make my decision based on the policy in place at the time of the decision.

Main Issues

5. The main issues are whether the location of the proposal would accord with the spatial strategy for the area in terms of the location of the dwelling and whether there is an essential need for a rural worker to live at the site.

Reasons

Location of dwelling

6. The application site is within the countryside, located along the rural Hungerdown Lane, very much detached from the settlements of Manningtree with Lawford and Mistley to the north-east and Ardleigh to the south-west.
7. It is the case that there would likely be a need to travel to nearby settlements to access the broader range of services required for day to day living beyond the reasonably narrow selection identified within the locality.
8. The requirement to traverse the often narrow and unlit country lanes without a footway to access the nearest settlements along with the distances involved is likely to act as a disincentive to adopt more sustainable modes of travel including walking and cycling. This would particularly be the case during the wintertime, in times of darkness and inclement weather.
9. The same constraints would likely discourage use of local bus services which the evidence suggests run along the A137 (Harwich Road), well away from the site to the north.
10. The site would therefore be unsuitable for residential development having regard to its poor accessibility to services and facilities. The proposal would subsequently conflict with policies SP3 and SP7 of the NEASSS which seek to accommodate development within or adjoining existing settlements and create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car.

Essential need

11. Paragraph 80 of the Framework¹ states that planning policies and decisions should avoid the development of isolated homes in the countryside unless, amongst other circumstances, there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
12. DLUHC & MHCLG guidance² on rural housing offers advice when applying paragraph 80(a) of the Framework. Amongst other things, it suggests such considerations include evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of a land-based rural enterprise and the degree to which there is confidence over the future viability of the enterprise.
13. The evidence indicates that the applicant runs an existing competition and livery yard from the site, although very limited information is provided about the current business. There is a desire to supplement the income to the existing business by having on full livery throughout the year, 3 broodmares for the purposes of insemination, foaling down and the weaning of foals.
14. Given the value of the mares and the problems that could be associated with foaling documented within the evidence, there is some evidence of a necessity for a rural worker to be present at the site.
15. It is clear that supervision of the mares during foaling time is desirable. However, any such necessity could only be justified around foaling time and the evidence indicates that the foaling period would be reasonably predictable

¹ National Planning Policy Framework 2021.

² Ministry of Housing, Communities & Local Government - Advice on planning for the housing needs of different groups - Paragraph: 010 Reference ID: 67-010-20190722.

given the short period of time within which the vast majority of mares could be expected to foal following conception.

16. Given the very limited number of mares that would be put into foal and located at the site, it is therefore likely that any requirement for round the clock on site supervision would be limited and would appear to be able to be planned to some degree. It could therefore be that any necessity for accommodation on the site could be met through some means other than a permanent dwelling as and when required.
17. The profit forecast appears to be based on figures from January 2021 and it may be the case that price rises within the economy since that time has seen the costs of hard feed, hay and bedding increase. This would impact on profit margins.
18. Even in the event that the profit forecast was to be realised to its maximum extent, and the new business were to run at full capacity, based on the stated figures, the cost to fund a loan to assist in the construction the dwelling would draw heavily on the suggested £1800 profit per month. The total cost of the dwelling is also unclear as is whether external funding would also be required for this purpose.
19. There is therefore no evidence that a permanent rural workers dwelling is required to support the business. The evidence also fails to persuade me that the business would be and remain economically viable.
20. The proposal therefore fails to accord with Paragraph 80(a) of the Framework which states that planning decisions should avoid the development of isolated homes in the countryside unless, among other circumstances, there is an essential need for a rural worker, to live permanently at their place of work.

Other Matters

21. There is nothing to suggest the dwelling would be unacceptable with regard to its scale and appearance. This would however be a neutral matter. There could be some economic and environmental benefits as a result of the dwelling including use of local construction contractors and the use of energy efficient materials. Benefits would be very limited though due to the small scale of the development and I therefore afford them limited weight. The same degree of weight could be afforded to the provision of a suggested self-build dwelling partly given the very limited level of information provided on this matter.
22. It is stated that the dwelling would help to support the existing business on site, although as I am provided with only very limited details of that business, I afford this matter limited weight.
23. Even if I were to conclude that the Council cannot currently demonstrate a five-year supply of deliverable housing sites as suggested by the appellant, the contribution to any deficit arising from a single dwelling would be minimal and the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
24. The Council identify concern over the absence of a unilateral undertaking in accordance with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy SPD. However, I have not considered this matter further because the scheme is unacceptable for other reasons.

Planning Balance and Conclusion

25. There is no indication that the proposal should be considered other than against the development plan, with which it would conflict. Further, the proposal would conflict with the Framework and this weighs against it. The appeal is therefore dismissed.

T J Burnham

INSPECTOR