
Appeal Decision

Site visit made on 12 December 2023

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd December 2023

Appeal Ref: APP/P1560/W/23/3318069

Land adjacent 18 Frinton Road, Thorpe-le-Soken CO16 0HP

- 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 and Mrs Green against the decision of Tendring District Council.
 - The application Ref 22/01534/OUT, dated 12 September 2022, was refused by notice dated 8 November 2022.
 - The development proposed is 'the erection of one self-build bespoke designed dwelling'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline with all detailed matters reserved. As such, the accompanying site layout plan has been treated as an illustrative guide to how the development could take place.
3. On 19 December 2023, the Government published a revised National Planning Policy Framework (the Framework) along with its latest Housing Delivery Test (HDT) results. However, the revised Framework does not materially alter the national policy approach in respect of the main issues raised in this appeal and therefore no parties have been prejudiced by its publication. In addition, the HDT results for the Council area (155%) indicates that recent housing delivery has been above the housing requirement which means no change to the housing position at this time.

Main Issues

4. The main issues are:
 - Whether the appeal site is an appropriate location for the development having regard to development plan policies;
 - The effect of the development on highway safety.

Reasons

Location

5. The development plan for the area comprises the Tendring District Local Plan North Essex Authorities' Shared Strategic Section 1 Plan, 2021 (LP1), and the Tendring District Local Plan Section 2, 2022 (LP2).

6. Policy SP3 of the LP1 sets out the broad spatial strategy for development within the District and seeks to direct growth to within or adjoining existing settlement boundaries. The supporting text recognises that growth needs to be carefully managed so as not to lead to unsustainable developments in remote and poorly accessible locations.
7. The appeal site of approximately 0.1 hectares is part of a larger agricultural/equestrian field adjacent to a small cluster of houses on the southern side of Frinton Road. It lies approximately 650 metres beyond the settlement boundary of the nearest village of Thorpe-le-Soken and is separated from it, and other sporadic development along Frinton Road, by other fields and notable visual gaps. As such, the appeal site is neither within, nor adjoining, an existing settlement boundary.
8. Policy SPL2 of the LP2 states that outside of defined settlement boundaries, development proposals will be considered in relation to the patterns and scales of growth promoted through the settlement hierarchy and any other relevant policies in the plan. The settlement hierarchy is defined under Policy SPL1 of the LP2 in which Thorpe-le-Soken is identified as a 'Rural Service Centre' on account of having some jobs, shops, services, and facilities. Also relevant is Policy CP1 of the LP2 which sets out that proposals for new development should include and encourage opportunities for access to sustainable modes of transport, including walking, cycling and public transport.
9. The proposed dwelling would not be remote from the services and facilities in Thorpe-le-Soken. However, this part of Frinton Road is busy and subject to the 60mph speed limit, dropping to 40mph further to the northwest on the approach into the village. This, together with its absence of street lighting and a distance of around 300 metres to the beginning of a pedestrian footpath, means that the route into the village is not safe for walking. Nor would it be safe or attractive for cycling, particularly in the darker winter months and at night.
10. There is a bus stop on the same side of the road just a short distance from the site, but again, there is no footpath connection. The intervening grass verge is not a suitable alternative means of reaching the bus stop as it is uneven and could also become overgrown and difficult to use, particularly in inclement weather and at night, and for those with young children and mobility issues. Consequently, individuals would have to walk within the busy road to reach the bus stop, putting their safety at risk, even if only for a short distance. Furthermore, as I do not have any details of the frequency of the bus service, I am unable to confirm that it would be a realistic substitute for the convenience of a private car.
11. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, the circumstances of this site mean that occupiers of the development would not have a genuine choice of sustainable transport modes, particularly walking and cycling which are given first priority before public transport. It is therefore likely that the majority of journeys to access the local services and facilities would be by car. As such, the development would not help to achieve a sustainable pattern of growth, with negative environmental and social impacts arising as a result.
12. In terms of other relevant development plan policies referred to by the parties, Policy LP7 of the LP2 sets out that small developments of self-build and

custom-built homes on land outside of, but within a reasonable proximity to, settlement boundaries, where they will still support a sustainable pattern of growth, will be considered on their merits and subject to meeting certain listed criteria. Only criterion b) is relevant in this case, which requires the development to be safely accessible on foot within 400 metres of the edge of the settlement boundary of a Rural Service Centre. However, the site is located beyond 400 metres from the settlement boundary, is not safely accessible by foot, and overall, would not achieve a sustainable pattern of growth. Consequently, this policy does not support the proposal.

13. The appellant contends that a distance restriction on self-build homes is inconsistent with the Framework. However, whilst the Framework does not include specific locational requirements for self-build development, this does not mean such development should be exempt from other policies designed to direct development to the most sustainable locations. Moreover, the development plan is recently adopted, and just like the Framework, should be read as a whole. I find no issues with inconsistency and give full weight to conflict with the development plan.
14. The appellant has also referred me to other appeal decisions in the District where new housing was allowed outside settlement boundaries, including Thorpe-le-Soken. However, neither of the appeals were determined under the same development plan context that I must determine this appeal against. In any event, from my reading of the decision letters, the site circumstances are not directly comparable. For example, in the Thorpe-le-Soken appeal (APP/P1560/W/18/3205372) the site was at a different end of the village and better linked via existing pedestrian footpaths. In the Bradfield appeal (APP/P1560/W/20/3252825), the site was immediately adjacent to the settlement boundary. Consequently, these decisions have limited bearing on the outcome of this appeal.
15. In light of all of the above, I conclude that the appeal site is not an appropriate location for the development proposed as the proposal would conflict with LP1 Policy SP3 and LP2 Policies SPL1, SPL2, LP7 and CP1, the requirements of which are set out above; as well as the Framework on sustainable patterns of growth and its emphasis on the importance of a plan-led approach to development. The proposal would result in significant harm in this respect.

Highway safety

16. It is indicated that vehicular access onto Frinton Road could be taken from the existing field entrance, which the appellant contends would achieve a visibility splay of 2.4 metres x 95 metres south and 2.4 metres x 202 metres north. However, the Design Manual for Roads and Bridges requires a visibility splay of 2.4 metres x 215 metres in both directions for roads with a speed limit of 60mph.
17. The results of a speed survey carried out in November 2022 have been provided which gives an 85th percentile speed of 46mph for northbound vehicles and 44mph for southbound vehicles. While this could potentially justify some reduction in the visibility splay requirements, there is little information on the precise location of the speed survey, the type of equipment used, and whether it was undertaken by qualified professionals. It also appears that the survey was only carried out on a single day outside of peak hours and when

the road surface was wet. Accordingly, I attach limited weight to the speed survey results.

18. Irrespective, the appellant acknowledges that the southern visibility distance would still be 15 metres short for the recorded speeds. Furthermore, it appeared to me that this southern visibility splay would cut across adjacent third-party land, which includes a driveway where vehicles could be parked at any time, as well as a side boundary fence of sufficient height to obstruct visibility in its own right. There is also a telegraph pole in the verge which further obstructs visibility looking south. Southern visibility is therefore substandard regardless of the visibility splays shown on plan. Although this is already the case for the use of the existing access, the proposed dwelling would likely result in a significant increase in the use of the substandard access, which would increase the chances of a collision. Moving the access point further north within the site is unlikely to make any significant difference to southern visibility and would reduce northern visibility.
19. Thus, on the evidence before me, it has not been satisfactorily shown that safe vehicular access/egress can be provided onto the highway.
20. I therefore conclude that the development would have an unacceptable effect on highway safety. This is contrary to LP2 Policies SPL3(B) and CP2, as well as Section 9 of the Framework, where these seek the provision of a safe and efficient transport network and to refuse development where there would be an unacceptable impact on highway safety.

Other Matters

21. The Self Build and Custom Housebuilding Act 2015 requires local authorities to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also required to have regard to this and to give enough suitable development permissions to meet the identified demand. The Framework emphasises the importance of addressing the needs of groups with specific housing requirements, including people wishing to commission or build their own homes.
22. The Council's officer report states that there is currently an unmet need for self-build and custom-build dwellings in the area, although little detail is given. The appellant's information obtained through a Freedom of Information request from the Council does little to assist. However, only one self-build dwelling is proposed and as such, the benefits of this would be of limited scale. Moreover, there is no mechanism before me whereby I can be satisfied that, following the grant of outline permission, the dwelling would be delivered as self-build. Accordingly, this matter carries limited weight in favour of the proposal.
23. The proposal would nevertheless support the Government's objective of significantly boosting the supply of housing. There would be some social and economic benefits associated with the construction and occupation of the dwelling, including through support for the local community and patronage of services and facilities in Thorpe-le-Soken and the wider surrounding area. However, the extent of these benefits would be limited by the small scale of the development and in the context of the Council's undisputed healthy 5-year housing land supply position and the HDT results.

24. The Council was satisfied that an acceptable scale and design could be achieved at the site and did not identify any harm in landscape terms. I see no reason to disagree. However, this absence of harm and compliance with requirements of the development plan is a neutral matter.
25. The site is within the Zone of Influence of the Hamford Water Special Protection Area and Ramsar site which is a European Site afforded protection under the Conservation of Habitats and Species Regulations 2017. The increase in population arising from even a single dwelling, but also in combination with other development projects, can place extra recreational pressure upon the designated coastal site and result in potential disturbance to the features of interest for which the habitat site is designated. However, as I am dismissing the appeal for other reasons it has not been necessary for me to address this matter further.

Conclusion

26. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is clear that the planning system should be genuinely plan-led.
27. I have found that the proposal conflicts with the Council's strategy for the location of new housing development, including self-build housing. It would also have an unacceptable effect on highway safety. As such, the proposal conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, which outweigh this conflict. Therefore, the appeal should be dismissed.

A Caines

INSPECTOR