



Appeal Decision

Site visit made on 4 January 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2024

Appeal Ref: APP/P1560/W/23/3319881

Bushwood, Rectory Road, Weeley Heath CO16 9BL

- 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 and Mrs Will and Dawn Felton against the decision of Tendring District Council.
 - The application Ref 21/01932/FUL, dated 12 November 2021, was refused by notice dated 6 October 2022.
 - The development proposed is proposed conversion of existing chicken shed (unused and previously part of working farm) into 123sqm 4 bedroom C3 dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council determined the application, an updated version of the National Planning Policy Framework, December 2023 ('the Framework') has been issued. I have consulted the main parties on this and had regard to any representations received.
3. During the planning application stage, an amended drawing (drawing number: 089 P010 Rev A) showing a revised access arrangement to that originally proposed was submitted. This also altered the boundary of the appeal site 'as edged red'. Based on the Council's decision, the proposal was refused on the basis of the amended scheme. I have determined the appeal on the same basis.

Background and Main Issues

4. The Council's third reason for refusal alleges that the application fails to adhere with the hierarchy of non-mains alternative solutions for foul sewage disposal and not result in harm to the environment.
5. The appellant's have confirmed that since the application was made, the septic tank on site has been replaced by a Package Treatment system, which the proposed dwelling would utilise. The Council has considered the provision of such a system and is satisfied that this adheres to the hierarchy of non-mains alternative solutions for foul sewage disposal and will not result in harm to the environment. As such, the Council is content with the revised means of foul sewage disposal and no longer wishes to defend this reason for refusal. I have also considered this and have no reason to disagree with the Council's conclusions.

6. Accordingly, the main issues are: i) Whether the proposal would be in a suitable location for housing with regard to the development plan and the Framework, and ii) Whether the proposed access arrangement would be acceptable with regard to highway safety.

Reasons

Suitable location for housing

7. Policy SP3 of the Tendring District Local Plan 2013-2033 and Beyond, Section 1, ('LP1') sets out the strategic spatial strategy for North Essex. This policy identifies existing settlements as the principal focus of growth. One of the aims of this Policy is to locate developments in settlements that are the most accessible to the strategic road network, public transport and offer a range of services.
8. The appeal site is outside the settlement boundary of Weeley Heath. As such, the creation of a dwelling at the appeal site would be outside the areas for the principal focus of growth.
9. Nevertheless, Policy SP3 of the LP1 does not explicitly exclude development outside settlements. Furthermore, paragraphs 83 and 84 of the Framework advise that housing should be located where it will enhance or maintain the vitality of rural communities to promote sustainable development in rural areas, avoiding, however, the development of isolated homes in the countryside unless one or more circumstances apply. One such circumstance is: c) the development would re-use redundant or disused buildings and enhance its immediate setting.
10. The appellants assert that to be an exception, paragraph 84(c) of the Framework requires two tests to be met, the building must be redundant, and its conversion must enhance the building's setting. However, as the decision maker, I need to first establish whether the building at the appeal site would be 'isolated' in terms of paragraph 84 of the Framework.
11. According to the appellants' submissions, the appeal site forms part of the curtilage and planning unit of 'Bushwood' a I dwelling. This includes the detached dwelling and other buildings. There is also development associated with Woodlands Farm to the north of the appeal site and beyond, along Rectory Road. As such, and whilst the appeal site is remote from shops, services and facilities, given its physical and spatial proximity to nearby buildings, I do not consider this to be isolated in terms of the Framework. As such, this proposal does not benefit from the exceptions listed under Paragraph 84 of the Framework.
12. Even so, there is nothing in the Framework to suggest that the re-use of a redundant or disused building would be unacceptable in a countryside location, which is not isolated. Furthermore, the provision of a dwelling at the appeal site would to an extent enhance and maintain the vitality of rural communities. This would provide some support towards the aims of Paragraph 83 of the Framework.
13. Given the dilapidated appearance of the existing building, the proposed scheme, subject to controls over its external finishes and its surroundings would enhance this. Despite the Council being able to demonstrate more than a 5-year supply of housing land, the proposal would provide an additional family

dwelling and this would also support the Government's objective of significantly boosting the supply of homes. Although planning permission 16/01514/FUL, was not implemented and has lapsed, this demonstrates that the Council has supported the re-use of this building for a form of residential use. Together, these factors, and associated social, economic and environmental benefits weigh strongly in favour of the proposal.

14. The Council's first reason for refusal also refers to Policy SP7 of LP1. This Policy requires that all new development should reflect place shaping principles, where applicable. The Council has not identified which of these principles, are applicable to the proposal or how these would be conflicted. Even so, most of these relate to meeting high standards of urban and architectural design and I see no reason, why subject to conditions, the proposal would not meet these principles, where applicable. For example, responding positively to local character and context to preserve and enhance the quality of existing places, incorporate biodiversity creation, include parking facilities, and include measures to promote environmental sustainability.
15. One of the principles of the above Policy SP7 of LP1, is to create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car. In this case, the building already exists and the Framework says that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. As such, I am not persuaded that the proposal conflicts with this Policy SP7 of LP1.
16. Nevertheless, the proposal fails to comply with a statutory plan-led approach to the location of future housing. As such, the proposal is contrary to the aims of Policy SP3 of LP1.
17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
18. There is conflict with the development plan in respect of the appeal site being outside the defined settlement boundary and the Council's strategy for the location of development. This conflict weighs significantly against the development. However, given the modest scale of the proposal (single dwelling) the extent of the conflict is relatively small.
19. Furthermore, some aspects of the proposal would be broadly consistent with the relevant principles of both local and national policy.
20. Therefore, in the particular circumstances of this case, there are material considerations which justify a decision other than in accordance with the development plan on this first main issue. As such, the proposal would be in a suitable location for housing.

Suitability of vehicular access

21. The amended access arrangement as shown on drawing 089 P010 Rev A, utilises the existing vehicular access for Bushwood. The proposal for an additional family dwelling would intensify the use of this access.
22. The Council's Highways Officer asserts that visibility from this access and forward visibility along Rectory Road, is not in accordance with current safety

standards. I have no technical evidence to dispute this. Adequate visibility splays are required at the access so that drivers in vehicles emerging from it can see any potential hazards in time to slow down and stop comfortably.

23. Furthermore, a number of matters have been highlighted regarding the geometry and quality of the existing access, which would need to be addressed.
24. Therefore, on the information before me, it has not been clearly shown that the use of the existing access, would provide safe vehicular access to and from the appeal site to serve an additional dwelling, without detriment to highway safety. I, therefore, conclude that the proposal would have an unacceptable impact on highway safety. Consequently, the proposal conflicts with the aims of Policy CP1 of the Tendring District Local Plan 2013-2033 and Beyond, Section 2, which requires new development to be sustainable in terms of transport and accessibility.
25. Accordingly, I also find conflict with paragraph 114 of the Framework which requires that safe and suitable access to the site can be achieved for all users and paragraph 115 of the Framework, which says that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

26. For completeness, I have considered the access originally proposed, as shown on drawing number: 089 P001. This shows a proposed access road connecting to an existing field access along Rectory Road.
27. The broad location of the existing field access is largely enclosed by an established hedgerow that is in excess of about 2m in height and is close to the carriageway edge. Based on the scale of the submitted drawings the exact details of this access point are unclear. Moreover, these do not include any visibility splays from this access in accordance with the speed of Rectory Road.
28. The appellants advises that this access arrangement is the same as that approved in 2016 under planning permission Ref 16/01514/FUL. However, the full details for this are not before me. As such, I am unable to draw any meaningful conclusions in respect of the approved access. Therefore, I am not satisfied that access arrangement originally proposed, would provide safe vehicular access to and from the appeal site without detriment to highway safety.
29. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated site falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further, and to undertake an Appropriate Assessment ('AA') of the implications of the appeal scheme for the European designated site.
30. However, as the main issue regarding highway safety provides a clear reason for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision since any findings on this issue would not change the appeal outcome.

31. Also, had the proposal been acceptable with regard to all the main issues, it would have been necessary to alter the plan submitted with the appellants' Unilateral Undertaking in relation to the European designated site, to reflect the amended appeal site, as shown on drawing number: 089 P010 Rev A.

Conclusion

32. Although I have found that the appeal site provides a suitable location for housing, I have also found that this would have an unacceptable impact on highway safety. For this reason and conflict with the development plan and the Framework, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR