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# Appeal Decision

Site visit made on 3 January 2024

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 February 2024**

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**Appeal Ref: APP/P1560/W/23/3316031**

**Land to the south of 4 Edward Road, Thorpe-Le-Soken, Essex CO16 0HJ**

- 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 Stanley Clark against the decision of Tendring District Council.
  - The application Ref 22/01316/OUT, dated 2 August 2022, was refused by notice dated 14 November 2022.
  - The development proposed is described as 'outline application with all matters reserved for one single storey dwelling'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The address on the planning application form refers to 'The Woodlands'. However, in the interests of accuracy and consistency my banner heading includes the amended address taken from the Council's decision notice which is also given as the site address on the appellant's appeal form.
3. The application was made in outline, with all detailed matters reserved for later determination. I have dealt with the appeal on that basis.
4. The proposed development has been screened in accordance with the Environmental Impact Assessment (EIA) Regulations 2017. It has been concluded that the development would not be of a scale and nature likely to result in a significant environmental impact and EIA is therefore not required.
5. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. Consequently, this update to national policy does not fundamentally alter the main parties' cases or prejudice their position at appeal, and it is not necessary to seek further comments.

## Main Issues

6. The main issues are:
  - (i) whether the appeal site is a suitable location for the proposal having regard to the development plan and national policy; and

- (ii) the effect of the proposal on the character and appearance of the area, including but not limited to landscape character and the setting of the Thorpe-le-Soken Station and Maltings Conservation Area (CA).

## **Reasons**

### *Location*

7. Policy SP 1 of the Tendring District Local Plan (Section 1 2021 and Section 2 2022) (LP) and the Framework set out a presumption in favour of sustainable development.
8. Policy SP 3 (Spatial Strategy for North Essex) of the LP confirms that existing settlements will be the principal focus for additional growth across North Essex. It also states that development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role both within each individual district and, where relevant, across the wider strategic area.
9. Policy SPL 1 (Managing Growth) of the LP sets out a settlement hierarchy and includes Thorpe Station and Thorpe Maltings amongst a list of 'Smaller Rural Settlements'. The evidence before me indicates that the appeal site sits outside the settlement development boundary (SDB) for Thorpe Station and Thorpe Maltings. Policy SPL 2 (Settlement Development Boundaries) confirms that outside of SDBs proposals will be considered in relation to the pattern and scales of growth promoted through the settlement hierarchy in Policy SPL 1 and any other relevant policies in the LP.
10. The above policies of the LP do not include a blanket restriction on development outside the SDB. Even so, the supporting text to policy confirms that 'Smaller Rural Settlements' are considered to be the least sustainable locations for growth and that small scale increases in housing stock are envisaged over the plan period at these settlements.
11. I note the appeal site's location close to the railway station and the appellant has confirmed there are trains from there to London. However, it is likely that occupiers of the dwelling would generally be reliant on private vehicles to access the nearest services and facilities necessary to meet their day-to-day needs as they are not located in convenient walking distance. These accessibility constraints and the site's location outside the SDB of a 'Smaller Rural Settlement', indicate that the proposal does not promote a sustainable pattern of growth. This is particularly so when considered together with the conflict with other relevant policies in the LP identified under the second main issue.
12. I conclude, the appeal site is not a suitable location for the proposal having regard to the relevant policies of the development plan and the Framework.

### *Character and appearance*

13. Edward Road is a private cul-de-sac. At its junction with Harwich Road (B1414), the access road passes between pairs of semi-detached dwellings. However, as one moves away from the junction, dwellings on Edward Road are predominantly located to its northern side. The appeal site is located to the southern side of Edward Road and towards its western end, within a landscape which is dominated by fields and mature vegetation. In these respects, the site

forms part of a prevailing rural landscape which positively contributes to the intrinsic character and beauty of the countryside.

14. While the dwelling would be single storey in scale, in the absence of detailed plans to demonstrate otherwise, it would be likely to appear incongruous set amongst the fields and mature vegetation of its immediate surrounds. The domestic appearance of the development would be emphasised by any parked vehicles or other residential paraphernalia placed within the curtilage of the dwelling. Any new screen planting would take time to establish. Therefore, in the early years following completion of the development, it is likely that the development would appear significantly at odds with the pattern of development at this location and would detract from the distinctly rural landscape setting to the south of Edward Road. This would be evident in localised views including from the higher ground further south along the B1414.
15. The Thorpe-le-Soken Station and Maltings Conservation Area Review (2006) (CA Review) confirms that the CA contains a distinctive collection of buildings, most notably a listed Maltings. The CA also includes the small group of 'workers' cottages on Edward Road and 'ground associated with them' to the south of Edward Road. The appeal site adjoins the CA boundary.
16. Even though the CA Review recommends the workers cottages are removed from the CA, I am not aware that this has taken place. The site forms part of an open and verdant character to the immediate surrounds of the CA which complements the historical development pattern, and so to the setting of the CA. The intrusion of the development into these surrounds would detract from the open and verdant character in views towards and out of the CA, resulting in less than substantial harm to the significance of the CA.
17. The Framework states that where a development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. There are no public benefits in this instance which would outweigh the less than substantial harm identified. This adds to the general harm to the character and appearance of the area already identified.
18. I conclude, the development would have a harmful effect on the character and appearance of the area, including to the local landscape and the setting of the CA. In these respects, the proposal would conflict with the design, local character and landscape character, context and conservation requirements of Policies SP7 (Place Shaping Principles), SPL3 (Sustainable Design), LP4 (Housing Layout) and PPL8 (Conservation Areas) of the LP. The proposal also conflicts with the requirements of the Framework which include that developments should be well-designed, be sympathetic to local character and history including landscape setting, and should recognise the intrinsic character and beauty of the countryside.

## **Other Matters**

19. At the time of the Council's decision the housing land supply stood at 6.5 years and there is nothing to suggest that there has been a significant change in supply since then. Therefore, in accordance with the requirements of s38(6) of the Planning and Compulsory Purchase Act (2004), the appeal must be

determined in accordance with the development plan unless material considerations indicate otherwise.

20. The appellant contends that there have been recent planning permissions for residential development on Edward Road. I have not been provided with full details of those decisions. However, from what I can ascertain they were not similar to the location of the proposal on the south side of Edward Road. Furthermore, the planning permission<sup>1</sup> referred to in the Council's officer report confirms that particular development was to the north side of Edward Road and was granted planning permission at a time when the Council was unable to demonstrate a 5-year supply of deliverable housing land. Therefore, from what I have seen, the material considerations were not the same as the proposal before me.
21. Whether or not the appellant has tidied up the appeal site or plans to invest in the road surface on Edward Road, this does not justify development of the site which would conflict with the locational harm identified, including to the character and appearance of the area.
22. The Framework recognises the need to provide housing for different groups including for people wishing to commission or build their own homes. The appellant suggests that they would like to build their own retirement property on the site. However, there is no planning obligation before me by which to secure the plot for self-build purposes. Furthermore, there is no evidence before me to suggest that the Council is not meeting its requirements in this regard. Therefore, the potential for the site to deliver a self-build plot carries limited weight in this instance.
23. The appeal site lies within the 'Zone of Influence' for the Hamford Water Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site. I understand that a proportionate financial contribution would usually be sought in line with the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (2020) (RAMS). A Unilateral Undertaking dated 4 November 2022 has been provided which includes provisions for a RAMS contribution to be paid by the appellant. As the competent authority, the onus would usually be on me to carry out an Appropriate Assessment as part of this appeal, including consideration of the mitigation put forward. However, as I am dismissing the appeal, it has not been necessary to consider this matter any further.

## **Conclusion**

24. I have found that the development would conflict with the locational requirements of the development plan. This includes conflict with other relevant policies of the LP relating to the character and appearance of the area. Paragraph 12 of the Framework confirms that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
25. The other material considerations that have been advanced do not justify a decision other than in accordance with the development plan which, in terms of my conclusions under the main issues, the appeal scheme would clearly

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<sup>1</sup> LPA Ref 19/01635/FUL

conflict. Therefore, for the reasons set out, I conclude that this appeal should be dismissed.

*M Russell*

INSPECTOR