



Appeal Decision

Site visit made on 12 March 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th April 2024

Appeal Ref: APP/P1560/W/23/3321778

Springfield, Golden Lane, Thorpe-Le-Soken, Essex CO16 0LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs Harrison against the decision of Tendring District Council.
 - The application Ref is 22/01833/OUT.
 - The development proposed is outline planning application (access and layout to be considered) for the demolition of existing ancillary office and erection of 1no. three bedroom bungalow.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In Part E of the appeal form, it is stated that a change to the description of the development was agreed between the appeal parties. Accordingly, I have used the revised description in the banner heading above.
3. Outline planning permission is sought. Access and layout are included for consideration at this stage. Matters of appearance, landscaping and scale are reserved for future consideration.
4. The Council's third reason for refusal articulated its concern that, in the absence of mitigation, the proposed development would result in recreational activity which, in combination with other development in the area, would adversely affect the integrity of nearby Habitats Sites. Since the Council's decision, a unilateral undertaking (UU) has been submitted. The purpose of the UU is to secure a financial contribution towards mitigation measures in relation to those recreational activities and effects. Following receipt of the UU, the Council has stated that its objection to the development in this respect has been resolved. I comment on these matters later in my decision.
5. In December 2023, a revised version of the National Planning Policy Framework (the Framework) was published. The Council and the appellant have been given opportunity to comment on the revised Framework. I have had regard to the revised Framework in my decision.

Main Issues

6. The main issues are whether the appeal site provides a suitable location for the development proposed, having particular regard to the development plan's spatial strategy and the effects of the development upon the character and appearance of the area.

Reasons

7. The appeal site is located within a largely rural area. The site is adjacent to and out the back of Springfield, a property which faces Golden Lane. Several other properties line Golden Lane in a similar way. Most of these properties are residential dwellings. Therefore, although there are exceptions, I find that it is part of the prevailing character of the area that residential properties have a strongly linear formation along this part of Golden Lane.
8. Thorpe-le-Soken is located to the south-east of the appeal site. As a village, Thorpe-le-Soken is a more built-up area, and it contains a range of services and facilities. Thorpe Green is located to the north-west of the site and provides a further concentration of buildings in the local area, albeit it is far smaller than Thorpe-le-Soken.
9. Policy SP3 of the Tendring District Local Plan 2013-2033 and Beyond North Essex Authorities' Shared Strategic Section 1 Plan (the Section 1 Plan) establishes a spatial strategy for North Essex. The policy sets out that existing settlements will be the principal focus for additional growth and that development will be accommodated within or adjoining settlements according to their scale, sustainability and role. It further sets out that, beyond the main settlements, support will be given for the diversification of the rural economy and enhancement of the natural environment.
10. Policy SPL1 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 Plan (the Section 2 Plan) establishes a settlement hierarchy across Tendring District. The supporting text to the policy states that those settlements which may experience growth have settlement boundaries and that settlements without such a boundary are to be considered as countryside. This supporting text further sets out that in order to increase housing stock within the district, in addition to consented and completed sites, housing will be delivered on allocated land and will be supplemented by other suitable sites within settlement boundaries. Policy SPL2 of the Section 2 Plan, which concerns these settlement boundaries, states that there is a general presumption in favour of new development within these boundaries subject to detailed considerations and the application of other relevant development plan policies.
11. However, the appeal site is not located within a settlement boundary. Thorpe-le-Soken has such a boundary, but it is situated beyond the houses on the opposite side of Golden Lane and is further separated from the site by some fields. The site, therefore, does not adjoin Thorpe-le-Soken either, and it is poorly related to the pattern of built development of that settlement.
12. Furthermore, the proposed dwelling would be set a considerable distance back from Golden Lane to the rear of both Springfield and the position of the dwelling which was granted planning permission at appeal¹. Providing a residential property in such a back land position and so far from Golden Lane would be anomalous, divergent from the generally linear pattern of residential development in the area.
13. Located neither within, nor well related to, a settlement boundary the dwelling would instead be within the countryside. It would therefore constitute a pattern of development and growth that would be contrary to the planned distribution

¹ Appeal Decision Reference APP/P1560/W/18/3194253

of development advocated by policies SP3, SPL1 and SPL2. The conflict with the spatial strategy set out within the development plan is, by itself, harmful. Harm would also be derived from the development being at odds with the prevailing local character of linearly arranged residences.

14. The proposed dwelling would replace existing office accommodation, and it would be sited adjacent to further buildings proposed for retention. Although the matter of scale is reserved for future consideration, if I accept that only a bungalow would be developed, the dwelling would be likely to be quite low-slung. There are trees and hedgerows to the site's edges and surroundings. Although landscaping is also a reserved matter, I expect that much of this existing landscaping would be retained and would endure. These trees and hedgerows would effectively screen and soften the development.
15. For these reasons, the proposed dwelling would not be particularly prominent, would form a part of an enclave of built development with the retained nearby buildings and would not encroach into undeveloped fields. I accept that these factors do provide some curtailment to the harm that could otherwise arise from the siting of a new dwelling within a back land countryside location.
16. Nevertheless, for the reasons I have given above, harm would still arise from the development being at odds with the development plan's spatial strategy and by introducing a further dwelling into the area which would be divergent from the prevailing pattern, and thereby character, of residential development off Golden Lane.
17. Consequently, as well as conflicting with policies SP3, SPL1 and SPL2, the proposal also conflicts with policy SP7 of the Section 1 Plan and policies SPL3, PPL3 and LP4 of the Section 2 Plan. Amongst other matters, these latter four policies require development to respond positively to local character and context and protect the character of rural landscapes. The proposal's failure to be sympathetic to local character would also be contrary to the advice to this end within the Framework.
18. The appellant refers me to policy SP4 of the Section 1 Plan. This policy seeks to bring forward development compliant with the overall spatial strategy for development in North Essex and other policies relevant to it. Given I have identified conflict with this spatial strategy and policies SP3, SPL1 and SPL2, it follows that the proposal also conflicts with policy SP4.
19. Policy LP1 of the Section 2 Plan, also referenced by the appellant, outlines the sources of housing supply to deliver the minimum new homes necessary to March 2033. The policy does not provide a steer on the acceptability of the location of housing as such, nor on matters of character or appearance. Therefore, I find that the development does not conflict with policy LP1 but that it is also largely irrelevant to my main issues.

Other Matters

20. In allowing the appeal for a single dwelling on the land next to Springfield, the Inspector did consider that site to be sufficiently accessible with no environmental harm derived from likely travel patterns. Although the appeal was dismissed², I also note that the accessibility of the site proposed for 2 dwellings on neighbouring land was not a determinative factor for the

² Appeal Decision Reference APP/P1560/W/20/3260500

Inspector. Even if I were to take the view the site the subject of my appeal determination is accessibly located, in the main issues, I have identified that other harm and development plan conflict would arise from the proposal. In part, this harm and policy conflict is derived from the proposed siting of the dwelling, set so far back from the road. In contrast, and in keeping with the area, the dwelling that was allowed would be positioned next to Springfield and closer to the road.

21. Furthermore, the applicable development plan policies have changed since the allowed appeal. I have come to my own views on this appeal having regard to the development plan policies now in force, the evidence before me now and the particular circumstances of the case. Together, these factors distinguish my case from the allowed one. The previously allowed appeal is therefore of limited weight in my determination. Given the 2 dwelling scheme was dismissed, this does not weigh in favour of the appeal proposals either.
22. A 2003 planning permission subjects the building proposed for demolition and replacement to a condition that it is to be used for purposes incidental and ancillary to the enjoyment of the Springfield house. Like the Inspector found in his decision of July 2017³, during my visit the office contained, amongst other matters, a number of work stations and various staff were working at them.
23. The appellant submits to me that the condition imposed on the 2003 permission has been breached for a period of over 20 years. The use of the office I witnessed, and as described by the Inspector in July 2017, are similar. Even so, the evidence that the use of the building as a distinct office, and for purposes which are not incidental or ancillary to Springfield, is lawful is not substantive. Furthermore, in this appeal, it is not my role to formally determine this. This would require a lawful certificate application.
24. Even if the existing use of the building as a distinct office is lawful, the particular favour that this lends to the appeal proposal has not been made clear to me. As such, I can only agree with the appellant that the status of the office is a peripheral rather than a decisive matter in this appeal.
25. The Council partly refused the planning application on the basis that the development would be likely to result in additional recreational pressure which, in combination with other development, would adversely affect the integrity of nearby Habitats Sites. In doing so, amongst other matters, the Council referenced policy PPL4 of the Section 2 Plan.
26. To avoid such adverse effects, the appellant proposes that a financial contribution would be made towards forms of recreational disturbance avoidance and mitigation. This contribution is proposed via the submitted UU.
27. If I were minded to allow the appeal, I would need to be satisfied that the proposal would have no adverse effects on the integrity of the Habitats Sites. Given I am dismissing the appeal, there is no requirement for me to undertake this assessment. Even if I were to conclude that no such adverse effects would be caused by the development it would, at most, be a neutral factor in this appeal.
28. The development would make a contribution to housing supply albeit, in providing only a single property, this contribution would be modest. It would

³ Appeal Decision Reference APP/P1560/W/17/3168700

increase the choice of housing in the area, likely including the provision of a bungalow. This is compliant with policy LP2 of the Section 2 Plan which seeks to support the development of housing that meets particular needs, including homes for the elderly.

29. The evidence before me indicates to me that the Council can demonstrate well in excess of 5 years' worth of housing land supply. This does not act as a ceiling to further housing development. Nevertheless, it is an important factor in governing the weight I attribute to the boost to housing supply that the development would bring. Whilst a benefit is derived from the single dwelling proposed, given the circumstances, it is a matter of limited weight in my decision.
30. The proposal may not result in any effects prejudicial to highway safety, it may not harm the living conditions of neighbouring occupiers or harm trees either. It may also be the case that the Council raised no objections to the development on a range of other material planning grounds whilst a planning obligation may only be necessary to mitigate effects upon nearby Habitat Sites and for no other purposes. Finally, the proposal may provide appropriate living accommodation for its future occupiers and be an attractive place to live for some home-seekers. However, these are neutral factors in my determination which do not outweigh the harm I have identified in the main issues.

Conclusion

31. For the reasons given, I conclude that the proposal conflicts with the development plan taken as a whole. Material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

H Jones

INSPECTOR