



Appeal Decision

Site visit made on 10 April 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2024

Appeal Ref: APP/P1560/W/23/3321071

Glebe Farm, Clacton Road, Tendring, Essex CO16 0BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Eagles against the decision of Tendring District Council.
 - The application Ref is 22/01591/FUL.
 - The development proposed is described as self-build/custom build conversion and extension of existing stables, change of use to residential.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. During the appeal, a new version of the National Planning Policy Framework (the Framework) was published. However, as the Framework's policy content insofar as it relates to the main issue has not been significantly changed there is no requirement for me to seek further submissions on the latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.
4. The Procedural Guide, Planning appeals – England indicates at what stage in the appeal process planning obligations should be provided. A signed and completed unilateral undertaking (UU) made in accordance with section 106 of the Town and Country Planning Act 1990 (as amended) (the Act) was submitted as part of the appeal. It makes provision for the payment of a financial contribution calculated in accordance with the Council's Essex Coast Recreational Disturbance and Mitigation Strategy (2020) only. I consider this matter further in my reasoning below.
5. If a person wishes to ascertain whether an existing use or development is lawful, then the correct approach is for them to make an application under section 191 or 192 (as appropriate) of the Act for a Certificate of Lawful Use or Development. However, I shall consider the evidence so far as it is material to this appeal.

Main Issues

6. The main issue is whether the appeal site is an appropriate location for the development having regard to development plan policies.

Reasons

7. The appeal site is located in a small rural hamlet. Located within the grounds of Glebe Farm it comprises a single storey brick stable, small yard, and part of the wider garden area. The proposal seeks permission for a two storey five-bed self-build dwelling. Policy SP3 of the Tendring District Local Plan 2013-2033 and Beyond Section 1 adopted 26 January 2021 (the TDLP1) sets the spatial strategy for additional growth in North Essex in accordance with the role of the settlement, sustainability, its capacity and local needs.
8. Policy SPL1 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 adopted 25 January 2022 (the TDLP2) defines a settlement hierarchy. For the purposes of the policy, the appeal site is within the countryside as it is not within a listed settlement in Policy SPL1. The nearest listed settlement, located over 1km from the site, is Tendring village which is identified as falling within the 'Smaller Rural Settlements' category.
9. The supporting text to Policy SPL1 advises that 'Smaller Rural Settlements' are the least sustainable settlements, with fewer services and facilities. Policy SPL2 of the TDLP2 states that the Council will consider any planning application in relation to the pattern and scales of growth promoted through the settlement hierarchy. The aims and objectives of SP3 of the TDLP1 and Policies SPL1 and SPL2 of the TDLP2 seek to attach weight to development in locations that are accessible by a choice of means of transport, so as not to lead to unsustainable developments in remote and poorly accessible locations. Similarly the Framework promotes sustainable transport within paragraph 108.
10. The appeal site is not isolated from other dwellings. I also observed facilities such as a playground, a primary school, village hall, place of worship and a public house towards and in Tendring Village. Whilst my attention has been drawn to the proximity of bus stops close to the site, which would provide an available alternative to the private car, I do not have details about the quality of public transport provision. I cannot be certain that the frequency, routes or availability in the evenings and weekends would be a realistic substitute to the convenience of a private car. Nor am I convinced that due to their distance from the appeal site and the narrowness of the predominantly unlit footways that these limited facilities would be easy to walk to, particularly during inclement weather, dark mornings or evenings, or for those who may be less mobile. In my view the appeal site is remote from the 'Smaller Rural Settlement' of Tendring village.
11. Whilst I have considered the Framework within paragraph 109 that sustainable transport solutions will vary between urban and rural areas, I consider that due to the limitations of the existing roadway infrastructure, and absence of accessible nearby facilities that the vast majority of journeys would be undertaken by private motor vehicle. It has also not been shown whether the development would support local services where there are groups of smaller settlements, as noted within paragraph 83 of the Framework. The appeal proposal would not have good or suitable access to local services and facilities,

inconsistent with the aims of the aforementioned policies and requirements of the Framework.

12. Notwithstanding the above, the proposal would be for a self-build dwelling. Paragraph 63 of the Framework seeks to ensure that planning policies should reflect the needs for different groups in the community including those people wishing to build their own homes. Policy LP7 of the TDLP2 sets out the Council's approach in this respect and seeks to permit 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 subject to meeting certain listed criteria.
13. The development would not meet criterion a) or b) of Policy LP7 as it is not within 400m of a rural service centre or within 600m of a rural service centre or smaller urban centre. Only criterion c) of Policy LP7 of the TDLP2 is relevant in this case. This requires that proposals involving the redevelopment of vacant or redundant previously developed land are shown, with evidence, to be unviable for employment use.
14. Even if the stables are vacant or redundant it has not been demonstrated that the arrangement of the site or its location fundamentally makes the use of the building as an office, store or other employment use unfeasible with no up-to-date market assessment provided. This appears to be a reasonable approach to consider whether a commercial or employment use could be found even if it is a small employer. As such the proposal would not be in accordance with any of the criterion contained in Policy LP7.
15. I therefore conclude that the appeal site would not be an appropriate location for the development having regard to development plan policies. The proposal would therefore conflict with TDLP1 Policies SP1 and SP3 and TDLP2 Policies SPL1, SPL2 and LP7 the requirements of which are referred to above. The proposal would also conflict with the Framework where it seeks to achieve sustainable development and its emphasis that the planning system should be genuinely plan-led. The proposal would result in significant harm in this respect.

Other Considerations

16. It is claimed the appellant benefits from a right to use the site for one to five dwellings through the passage of time that the caravans have been situated and occupied. It is suggested that the fallback position would not be as beneficial as the grant of permission for the appeal scheme, as this would enable the removal of caravans with one well designed dwelling resulting in visual enhancements.
17. I observed the caravans on site. The land around them was not separated by boundary fencing from the main dwelling or from each other. I have no substantive evidence regarding who currently resides in the caravans, other than the appellant's family or how long they have lived in them. Whilst the date stamped images show the caravans, this only demonstrate their presence during that time, and does not demonstrate continuous or permanent occupancy or independent residential use as opposed to ancillary, temporary accommodation or another use. Although they may all have their own kitchen, bathroom, bedroom and living facilities, and may be capable of being used as accommodation. There are also no Council Tax records. On the evidence before

me, I cannot be certain any of the caravans have been in residential use. I am unable to attach significant weight to their occupation.

18. I note that no concerns have been raised regarding the effect upon the character or appearance of the area. The removal of the caravans would provide some visual benefit. However this would be largely limited to within the appeal site and thus reduces this benefit.

Other Matters

19. Whilst benefits can be attributed to self-build development, I have found that the site is remote from services and facilities and have no evidence of the quality of public transport. There is no evidence before me how many people are on the Council's Self-Build register or whether the Council is meeting its duty within the Self Build and Custom Housebuilding Act 2015 to have regard to and give enough suitable development permissions to meet the identified demand.
20. It is also important to ensure that permissions for custom and self-build homes are secured and delivered as self-build. The appellant has suggested this could be secure by condition, although none has been provided by either party. Such matters would normally be required to be contained within a legal agreement, such as a UU. I am not convinced a condition would be suitable to limit ownership/first occupancy, methods used to build the house or bind the requirement to successors in title should the land/property be sold in the future. As such this limits the weight in favour of the proposal.
21. Although the proposal would make a small contribution to the housing supply and could be built out quickly and provide benefits to the economy, this carries limited weight given the scale of the development in the context of the Council's undisputed 5-year housing land supply. The absence of harm in respect of highway access and safety, character and appearance of the area, landscape impact, flooding, heritage impacts and living conditions of future and neighbouring residents carries neutral weight.
22. The appeal site falls within the 'Zone of Influence' for a designated habitats site Hamford Water Special Protection Area and Ramsar which is a European Site afforded protection under the Conservation of Habitats and Species Regulations 2017. As the competent decision making authority, if I had been minded to allow the appeal following a consideration of all of the main issues, it would have been necessary to undertake an appropriate assessment before ascertaining if the appeal should succeed overall. The appellant has submitted a UU which includes a contribution towards ecological mitigation. As I am dismissing the appeal for other reasons, I have not taken the matter further.
23. Whilst I note new development has been built directly to the north of the appeal site, I do not have all the relevant details before me. I note it was granted in 2016, which pre-dates the adoption of the TDLP1 and TDLP2. I therefore cannot be certain that the same policies or circumstances apply for this proposal. Consequently, this development has limited bearing on the outcome of this appeal.

Conclusion

24. Development which conflicts with the development plan should be refused unless other material considerations indicate otherwise. There are no material

considerations of such weight, to outweigh the harm which I have identified with regard to the main issue to lead me to the conclusion that the proposal should be determined other than in accordance with the development plan.

25. For the reasons given above I conclude that the appeal should be dismissed.

K Williams

INSPECTOR