



Appeal Decision

Site visit made on 25 June 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/P1560/W/23/3329254

49 Harwich Road, Lawford, Essex CO11 2LS

- 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 R. Staff against the decision of Tendring District Council.
 - The application Ref is 23/00605/FUL.
 - The development proposed is the erection of two dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue relevant to this appeal is:
 - Whether the appeal site is a suitable location for housing with particular regard to the requirements of the Council's spatial strategy.

Reasons

Location of housing

3. The appeal site comprises land immediately adjacent to 49 Harwich Road, located between the settlements of Lawford and Ardleigh. The land is adjacent to an access road which serves the existing house at No. 49, and a public right of way also runs to the east of the site. This part of Harwich Road contains widely spaced linear residential development to either side of the road. This is interspersed with other uses including horticultural holdings along with other light industrial uses and a sports ground.
4. The spatial strategy for North Essex is set out by Policy SP3 of the North Essex Authorities' Shared Strategic Section 1 Plan, January 2021 (Strategic Plan). It states that existing settlements will be the principal focus for additional growth across the North Essex Authorities area. It also states that beyond the main settlements the authorities will support diversification of the rural economy and conservation and enhancement of the natural environment.
5. The Council has not indicated whether the proposed development would conflict with any of the policies contained in Section 2 of the Tendring District Local Plan 2013-2033. However, a copy of Policy SPL1, which sets out the settlement hierarchy, has been provided. This policy identifies Ardleigh as a 'smaller rural settlement' and Manningtree, Lawford and Mistley as a 'smaller urban settlement'.

6. The appeal site is located some distance from the boundary of either Ardleigh or Lawford. The site cannot therefore be categorised as either within or adjoining the settlements. As such, Policy SP3 provides no support for further residential development in this location. No substantive evidence has been presented to advance the case that the proposal would support diversification of the rural economy or enhance the natural environment. The National Planning Policy Framework (the Framework), at paragraph 15, is clear that the planning system should be genuinely plan-led. The proposal would harmfully undermine a relatively recently adopted development plan policy.
7. Spatial Strategy Policy SP7 sets out various place making principles, including the creation of well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above the use of the private car. Little substantive evidence has been presented to demonstrate how these principles have been met by the appeal proposal.
8. The appellant has drawn attention to a residential scheme granted planning permission at 45 Harwich Road¹ along with another allowed at appeal at 43 Harwich Road². Whilst I appreciate that the houses in the scheme at No. 45 Harwich Road are very similar in design to the appeal proposal, this is not the issue in dispute. The schemes at No. 45 and No. 43 were granted planning permission and allowed at appeal at a time when the Council could not demonstrate a 5-year supply of deliverable housing sites. Given the Council is now able to demonstrate a supply of suitable housing sites in excess of 5 years, I consider the circumstances presented in this appeal are materially different to those in place at the time of the nearby examples. As such, I have afforded them limited weight in my decision.
9. Having regard to the above, I conclude that the proposed housing would not be in a suitable location with specific regard to Policies SP3 and SP7 of the Spatial Strategy which, taken together, seek to locate new housing within existing settlements and create places according to place shaping principles, which amongst other things prioritise pedestrians, cyclists and public transport over the private car. The proposal's conflict with these policies causes significant harm as it undermines the aims of the Spatial Strategy.

Other Matters

10. The appeal site falls within the Zone of Influence (ZoI) of European designated sites of the Stour Orwell Estuary RAMSAR and SPAs, which are scoped into the Essex Coast Recreational disturbance Avoidance Mitigation Strategy (RAMS). The RAMS forms a Supplementary Planning Document adopted in 2020. The sites are designated due to the internationally important numbers of breeding and non-breeding birds and their coastal habitats.
11. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. As I am dismissing the appeal for other reasons, I shall not pursue this matter further because it would not lead me to a different conclusion.

¹ Ref 20/00338/FUL dated 17 July 2020 for the erection of two semi-detached dwellings.

² APP/P1560/W/18/3218683 dated 5th July 2019

12. The Council do not consider that the proposals would be harmful to the character and appearance of the area, or that any harm would arise to the living conditions of nearby residents. The Highways Authority have confirmed that the public right of way would not be affected by the proposals, and the Council also accept that the proposed access would be acceptable in highways terms. The evidence does not lead me to disagree with these conclusions. The absence of harm in these respects is a neutral factor which does not weigh for or against the proposal.

Planning Balance and Conclusion

13. There would be a small benefit to the local housing stock through the provision of two additional dwellings. This would support the Government's aim of significantly boosting the supply of homes. However, the addition of 2 dwellings would provide a limited contribution in this context and I attach minor weight to this benefit. There would also be some modest socio-economic benefits through construction employment and new residents using local services.
14. The location of the proposal is in clear conflict with the development plan in terms of its policies on the location of housing growth. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise than in accordance with the development plan. For the reasons given above the appeal should be dismissed.

L Francis

INSPECTOR