



Appeal Decision

Site visit made on 30 July 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2024

Appeal Ref: APP/P1560/W/23/3329713

Bramble Lodge, Heath Road, Tendring, Essex CO16 0BX

- 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 & Mrs Smith against the decision of Tendring District Council.
 - The application Ref is 23/00683/FUL.
 - The development proposed is a new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would be in a suitable location for new housing with regard to the local development strategy; and
 - the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Location

3. The appeal site is currently occupied by a car port and associated driveway, with vehicular access from the road between two existing dwellings. The remainder of the site is open grassland. It is located to the rear of existing development on Heath Road, in a rural location, which is outside of any defined settlement development boundary.
4. Policy SP3 of the North Essex Authorities' Shared Strategic Section 1 Plan (LP Section 1) 2021 states that existing settlements will be the principle focus for additional growth. Therefore, the proposed development would not accord with this policy.
5. Policy SPL2 of the Tendring District Local Plan 2013-2033 and Beyond Section 2 (LP Section 2) 2022 states that outside of settlement development boundaries the Council will consider any planning application in relation to the pattern and scales of growth promoted through the Settlement Hierarchy in Policy SPL1 and any other relevant policies in this plan.
6. Policy SPL1 of the LP Section 2 indicates that Tendring is classified as a smaller rural settlement, an area which, in the pre-ambles to the policy, is considered to be the least sustainable location for growth. Whilst this is the closest defined

settlement, it is still some distance from the appeal site with the Council indicating that the proposed development would extend far beyond the area planned to provide growth for this settlement.

7. Paragraphs 82 and 83 of the Framework states that in rural areas planning decisions should be responsive to local circumstances and support housing development that reflects local needs and located where it will enhance and maintain the vitality of rural communities. However, no evidence has been provided to suggest that, although outside of the settlement development boundary, the proposed development would be a suitable location for housing in relation to the pattern and scales of growth promoted through the Settlement Hierarchy or any other relevant policies in the development plan. Therefore, it would not accord with Policies SPL2 of the LP Section 2.
8. Consequently, the proposed development would not be in a suitable location for new housing with regard to the local development strategy and would conflict with Policy SP3 of the LP Section 1 and Policies SPL1 and SPL2 of the LP Section 2 as outlined above.

Character and Appearance

9. Although there is not extensive residential development in the surrounding area, dwellings in this small cluster of properties largely front the main road in a linear fashion and are surrounded by open countryside, giving the area a rural feel. Whilst the appeal site is located in between existing developed land and the appellant considers it to be scrub land, its open and undeveloped nature contributes positively to the wider open countryside and the area's rural backdrop.
10. The existing car port and driveway result in the domestication of a small part of the site, closest to the existing neighbouring dwellings, but the remaining grassland continues to be open and undeveloped. The proposed dwelling would be located in line with the existing access, fairly centrally on the appeal site with a large curtilage surrounding it. Its backland position, with no road frontage, would appear out of keeping with the layout of surrounding residential development and the central location of the proposed dwelling would erode the existing open and rural nature of the site.
11. There would be a significant amount of amenity land surrounding the proposed dwelling, which the appellant claims could be landscaped to enhance biodiversity and provide screening. Nevertheless, the use of this land as garden space, and any proposed landscaping of it, would further add to the domestication of the site resulting in a more suburban appearance, to the detriment of the wider open countryside. Furthermore, whilst the proposed dwelling would be located to the rear of the dwellings on Heath Road, the access road between Bramble Lodge and Heathland House is wide and would provide direct views of the development from the public realm. Therefore, whilst one single storey dwelling may be considered modest, it would still have a significant impact on the character of the overall streetscene.
12. It is noted that the level of proposed development has been reduced from previous iterations intended to overcome previous reasons for refusal. Nevertheless, for the reasons above, the proposal before me would still be to the detriment of the character and appearance of the surrounding area.

13. Therefore, the proposed development would harm the character and appearance of the surrounding area and would conflict with Policies LP8, SPL3 and PPL3 of the LP Section 2. These policies collectively seek to ensure that all new development makes a positive contribution to the quality of the local environment and protects the rural landscape with the residential development of backland sites avoiding tandem style development and not being out of character with the area.

Planning Balance

14. The Council has stated that they currently have a 6.44 year supply of deliverable housing. However, this is contested by the appellant who has provided an assessment of the five year housing land supply which states that it cannot be reasonably concluded that the Council are able to demonstrate a five year supply of deliverable sites. If that is the case, due to the provisions of footnote 8, paragraph 11(d)(ii) of the Framework should be applied.
15. In the context of the development, I have found that the proposal would be contrary to Policy SP3 of the LP Section 1 and Policies SPL1, SPL2, SPL3, LP8 and PPL3 of the LP Section 2, resulting in development which would not be in a suitable location for housing and would result in harm to the character and appearance of the surrounding area. The Framework supports housing development in rural areas which meets an identified local need along with the creation of high quality, beautiful and sustainable buildings and places which are sympathetic to the local character, including the surrounding built environment and landscape setting. Therefore, as these policies are generally consistent with the relevant aims of the Framework, I attach significant weight to the conflict with them.
16. The development would add to the overall housing land supply and make a small contribution to the Government's objectives of significantly boosting the supply of homes, with the addition of a single dwelling. Economic advantages would arise from the construction along with the spending power of the future occupants. However, given the scale of the scheme, any such benefits would be relatively small.
17. Therefore, even if I were to conclude that there is a shortfall in the five year housing land supply, given the harm that I have identified, the adverse impact of granting planning permission would significantly and demonstrably outweigh the limited benefits of one dwelling when considered against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply and does not weigh in favour of the proposed development.
18. It is noted that within a previous appeal decision¹, due to the lack in the supply of deliverable housing sites, limited weight was given to the conflict with the relevant policies. The previous appeal decision was made prior to the adoption of the LP Section 1 and the LP Section 2 and therefore, the current appeal was assessed against different relevant policies and the weight attributed to them would not be the same. Nevertheless, the weight to be given is a matter for the decision maker and in this instance, I have come to a different conclusion.

¹ APP/P1560/W/18/3213566

Other Matters

19. The appeal site lies within the Zone of Influence (ZoI) for the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site. Given that the proposal is for additional housing, there is a reasonable likelihood that these European Sites would be accessed for recreational purposes by future occupants of the development. Therefore, in combination with other developments, likely significant effects cannot be ruled out. The appellant has provided a Unilateral Undertaking as part of this appeal to secure a proportionate financial contribution in accordance with the adopted Essex Coast Recreational Disturbance Avoidance and Mitigation Scheme (RAMS) requirements.
20. The Conservation of Habitats and Species Regulations 2017 (as amended) 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. However, no further evidence has been provided to me on this matter and regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

21. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR