



Appeal Decision

Site visit made on 8 August 2017

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14th September 2017

Appeal Ref: APP/P1560/W/17/3169112

Great Oakley Lodge, Harwich Road, Great Oakley CO12 5AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Tim Spurge against Tendring District Council.
 - The application Ref 16/01642/OUT, is dated 5 October 2016.
 - The development proposed is erection of 30 dwellings, new access and landscaping.
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Decision

1. The appeal is dismissed and planning permission is refused for erection of 30 dwellings, new access and landscaping at Great Oakley Lodge, Harwich Road, Great Oakley CO12 5AE.

Procedural Matters

2. The application was made in outline form with all matters reserved apart from Access and Layout. The appellant has provided a 'typical front elevations' plan but because this matter is reserved I have determined the appeal on the basis that the plan is indicative.
3. The appeal results from the Council's failure to determine the planning application within the statutory period. The Council has provided the relevant Planning Committee report¹ which sets out that had they been in a position to determine the application they would have refused it on the grounds of the site being outside the settlement development boundary for Great Oakley in both the adopted and emerging plans.
4. Furthermore, that the urgency to approve housing developments contrary to the local plan is low, the settlement has had a disproportionate amount of growth and that there would be adverse impacts on the character of Great Oakley and the ability to manage growth through a plan led approach. In addition that Great Oakley has limited services and facilities, there is no support from the local community or any overriding public benefits that warrant considering the proposal as an exception to adopted plan policies.
5. The second objection relates to a lack of a S106 legal agreement to secure affordable housing and open space. In response to this the appellant has submitted a Unilateral Undertaking dated 15 May 2017 ('UU') and this is a matter to which I return to below.

¹ 29 March 2017.

6. Following my site visit I wrote to both seeking any additional comments on the effect of the proposal on the character and appearance of the area. This is because I considered it to be an important consideration and I have taken into account the comments I have received in my decision.
7. The emerging policies in the draft Tendering District Local Plan 2013-2033 and Beyond Preferred Options Consultation Document have been referred to but these are at a formative stage and are still the subject of public consultation. I have therefore afforded them little weight.

Main Issues

8. Given the above, the main issues are:
 - Whether the proposal would provide a suitable site for housing, having regard to settlement strategy and the proximity of services and reliance on car based journeys.
 - The effect of the proposal on the character and appearance of the area.
 - Affordable housing and planning obligations.

Reasons

Suitable site

9. The Council place a heavy reliance on the emerging local plan and its settlement strategy in addition to the National Planning Policy Framework ('the Framework') in the committee report. However, as set out above that plan is of little weight. The starting point is that determination must be made in accordance with the adopted development plan unless material considerations indicate otherwise².
10. I have been provided with the saved policies of the Tendring District Local Plan 2007 ('LP') including Policy QL1 of the sets out a 'Spatial Strategy' for the period up to 2011. It follows principles of sustainable development and requires that most new development be concentrated at the larger urban areas of Clacton and Harwich and development to be concentrated within the settlement development boundaries, as defined on the proposals maps. Outside these boundaries, only development which is consistent with countryside policies will be permitted or if it is consistent with local community needs. The proposal falls outside of such boundaries and there is nothing to suggest it accords with other such policies. In this respect there would be conflict with the LP.
11. The Framework identifies that development that generates significant movement should be located where the need for travel can be minimised and the use of sustainable transport modes can be maximised. However, this needs to take into account policies such as set out elsewhere in the Framework, particularly in rural areas.
12. Although the Council state there is a regular bus service, there is little before me to establish whether it is regular and therefore a realistic alternative option to the private car. Furthermore, Great Oakley has a limited range of services and is categorised a 'Smaller Rural Settlement' in the emerging plan. In my view, future residents would have little choice other than to be heavily reliant

² Section 38

on car based journeys rather than more sustainable modes of transport for trips to and from shops, school, work, health, leisure and other day to day services and facilities further afield.

13. The scale of development would not be insignificant in terms of its vehicle movements in this semi-rural location. I acknowledge that frequency of rural public transport will not be the same as in urban areas but the level of provision is unlikely to provide a realistic alternative for any meaningful number of future residents.
14. For these reasons, the site would not be a suitable site for housing having regard to the adopted settlement strategy, the proximity of services and reliance on car based journeys. Accordingly, it would conflict with Policies QL1 and QL2 of the LP which, seeks to secure sustainable development by promoting and directing growth to the largest settlements requires recognition to be given to the intrinsic character and beauty of the countryside and to actively manage patterns of growth to make the fullest use of public transport, walking and cycling.

Character and appearance

15. The application site extends to 2.04 hectares in area and comprises an open agricultural land located to the north of Harwich Road. Much of the site frontage is characterised by a tall mature hedge. By virtue of its extensive, undeveloped and open character the appeal site provides a clear physical and visual gap between existing residential developments when travelling along Harwich Road.
16. The openness and spaciousness of the site combines to give the site a stronger affinity with the open countryside than any existing development in proximity to it. It positively contributes to the locally distinctive and predominantly linear pattern of development which is punctuated by such gaps and spaces. The introduction of the proposal onto an undeveloped site would alter its character and appearance as a site that provides an important and valuable contribution to the open and undeveloped landscape setting of the settlement.
17. The Council refer the Ramsey Valley System Landscape Character Area ('LCA'). The key characteristics of the LCA type are that it is a distinctive steep sided valley of Ramsey Creek and its tributaries extending inland from Harwich. Much of the land is set out in large fields that are intensively farmed.
18. The appeal site is not a designated gap or landscape but in visual terms and closer to the appeal site the local topography would mean that any development would be clearly conspicuous on the approach along Harwich Road in both directions, but in particular from the west.
19. I accept that the Appearance, Landscaping and Scale of the scheme would fall to be assessed in greater detail at a later stage but such buildings are highly likely to be sited uncharacteristically behind the existing rear building line on this side of Harwich Road. The combination of the likely size, height and siting of the dwellings, their close proximity to one another and narrow form would appear as overly dominant and unduly prominent built form. In such a context the proposal represent an unacceptable suburbanisation of the appeal site that would fundamentally change the character and appearance of the rural setting of the village.

20. I do not consider that this effect would be appropriately mitigated by additional landscaping, given the amount of time it would take to mature to have any effect and given the need to conserve the existing open character of the appeal site. Whilst the appellant also refers to the layout reflecting Partridge Close opposite, although in linear form those dwellings are single storey and therefore have a much lesser effect than the proposal before me would have.
21. The appellant refers to the plan being silent in such terms but I find that there is a relevant body of policy which is sufficient to allow enable the proposal to be considered and determined acceptable or unacceptable in terms of character and appearance of an area. It is therefore not silent or absent and furthermore, I am not bound by the views of the Council's Landscape Officer.
22. For these reasons, the proposal would cause significant harm to the character and appearance of the area. It would conflict with Policies QL9, QL11 and EN1 of the LP which seek to ensure that development is appropriately designed when compared to its locality and does not harm the appearance of the landscape, including the setting and character of settlement. The proposal would also conflict with the relevant objectives of the Framework, including the principle (included in paragraph 17) of the intrinsic character and beauty of the countryside should be recognised.

Affordable housing and planning obligations

23. In accordance with Policy HG4 of the LP 40% of the dwellings should be provided as affordable housing. The submitted obligation provides for 30% of the proposed dwellings, which the appellant contends accords with the emerging plan³ which I have found to be of little weight. This equates to 9 dwellings and there is nothing substantive before me to justify any flexibility or reduction. Consequently, it would fall short of the necessary requirement and would conflict with the requirements of Policy HG4.
24. A contribution of £4,213 towards children's equipped play and a monitoring fee is included and would be used towards Orchard Close Play Area, located approximately 600m from the appeal site. The Council has confirmed that the 5 obligations pooling restriction has not been breached. It would accord with Policy QL12 of the LP.
25. Having regard to the development plan and on the evidence before me these obligations would meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 ('the Regulations') and the tests for planning obligations set out in the Framework. Notwithstanding the conflict with Policy HG4 I have therefore taken the UU into account.

Other Matters

26. My attention has been drawn to an appeal at Glebe Meadow, Southminster, Essex⁴ and 2 recent approvals by the Council⁵. The Glebe Meadow decision relates to a different authority where the Inspector reached different conclusions based on a different development plan. A proposal for a mixed use scheme including 51 houses was approved by the Council in March 2016.

³ Paragraph 6.10 of appellant's statement.

⁴ APP/X1545/W/17/3167607.

⁵ 15/01080/OUT and 15/01774/OUT.

However, this is located in a different part of the village and appeared to provide additional on-site services and facilities.

27. I do not find the approval of 2 bungalows on adjoining land⁶ or for 8 dwellings at Sparrows Farm to be directly comparable as these were for much smaller amounts of development with significantly lesser effects. Nor are my views outweighed by The Housing White Paper February 2017. In any event each case must be determined on its own merits and therefore such matters do not alter my views in relation to the main issues.

Planning balance and overall conclusion

28. When the Council issued its formal decision it was unable to demonstrate a 5 year housing land supply. It has since stated in its submissions that it is now able to demonstrate an adequate housing supply of 5.1 years but there is some disagreement as to whether the Council can demonstrate a deliverable 5 year supply of housing land. The appellant contends that the last recorded figure is 4.5 years⁷ but that in the absence of rigorous testing it is not possible to ascertain the supply figure.
29. I have had regard to the appellant's contentions regarding the delivery of approved schemes and the appeal decisions cited by the Council where it was concluded the shortfall was 4.84 years⁸. Nonetheless, that appeal was determined by Public Inquiry and on the evidence before me I find I am unable to be conclusive in relation to the housing land supply, although on balance any shortfall would not appear to be significant. I am also mindful that an Inspector in a recent appeal⁹ found the Council's estimates of deliverable housing to be broadly reasonable.
30. Paragraph 215 of the Framework states that due weight must be given in existing plans subject to the degree of consistency with the Framework and that simply because a plan was adopted before the Framework it should not be considered out of date. The blanket protection of the countryside is not supported by the Framework Policy QL1 is not entirely consistent with it in terms of the balancing of impacts and benefits. Nonetheless, insofar as recognising the intrinsic character and beauty of the countryside, actively managing patterns of growth to make the fullest use of public transport, walking and cycling and supporting the effective use of previously developed land are concerned, Policy QL1 has some inherent consistency with the core planning principles at Paragraph 17. Consequently, I still afford it weight but this is less than full.
31. The proposal would provide a modest amount of additional homes, including 9 affordable units. It would also bring some economic and social benefits and at best it may assist in maintaining the vitality of rural communities. The appellant refers to local trades being used but there is nothing before me to secure this benefit and in any event, I give little weight to the economic benefits of construction jobs and the additional patronage of village services during construction, given their short term nature. The New Homes Bonus would also be a benefit, albeit a limited economic one. Although the open space contribution is mitigation, it would provide a minimal social benefit. Whilst

⁶ 15/00975/FUL.

⁷ Paragraph 6.3 of appellant's statement.

⁸ APP/1560/W/16/3145531, APP/P1560/W/16/3156451 and APP/1560/W/16/3156452.

⁹ Appeals referred to in footnote 9 dated 20 February 2017.

there is a lack of objection in terms of other normal development management considerations the absence of harm weighs neutrally in the planning balance.

32. Set against this, I have found that the proposal would not be in a suitable location in terms of the adopted settlement strategy, proximity to services and reliance on car based journeys. It would cause significant harm to the character and appearance of the area and would also fail to provide a policy compliant level of affordable housing. Overall, it would fail to fulfil the social and environmental dimensions of sustainable development.
33. Taking everything together, even if I were to conclude there is a shortfall in 5 year supply as suggested by the appellant and that the development plan is absent, silent or relevant policies are out of date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not therefore represent sustainable development.
34. For the reasons give above, the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that the proposal should be determined other than in accordance with the development plan and having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR