



Appeal Decision

Hearing Held on 10 October 2017

Site visit made on 10 October 2017

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 11th January 2018

Appeal Ref: APP/P1560/W/17/3177219

Land north of St Osyth Road, Tenpenny Farm, Alresford CO7 8DJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Norman Sibbons of Sibbons (Alresford) Ltd against the decision of Tendring District Council.
 - The application Ref 16/00669/OUT, dated 27 April 2016, was refused by notice dated 13 February 2017.
 - The development proposed is residential development, erection of up to 50 no. new dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved. I have dealt with the appeal on that basis, treating the site layout plan as illustrative. The access, appearance, layout, scale and landscaping (the reserved matters) are reserved for consideration at a later stage.
3. I note that the draft Tendring District Local Plan (draft LP) was submitted for examination during the course of the appeal. However, details of the extent of outstanding objections have not been provided to me. As this Plan has not been subject to examination, only limited weight can be given to it.
4. During the course of the appeal, the Council updated their position in relation to the supply of housing land such that they now consider that they have a five year supply of deliverable housing sites. However, this is disputed by the appellant. The Council suggest that policies relating to the supply of housing should be considered up-to-date, in particular Policy QL1 of the Tendring District Local Plan (LP). Policy SPL2 of the draft LP is also relevant. Had there been a five year supply of housing at the time of determining the application, these policies would have been referred to in their reasons for refusal.
5. A Unilateral Undertaking (UU) under Section 106 of the Town and Country Planning Act 1990 was submitted following the hearing, based on the draft discussed at the hearing. I understand that this would overcome the second reason for refusal relating to the lack of provision of affordable housing on site and financial contributions toward education and healthcare provision. I shall not consider this as a main issue.

6. Two appeal decisions¹ have been submitted by the appellant and both parties had the opportunity to comment on them. I understand that the Council dispute the findings of both Inspectors and have challenged the decisions through the courts. I understand that the Secretary of State has decided not to contest the challenge on the Centenary Way appeal and the Council expect this to be quashed and re-determined. Nevertheless, I must assume that administrative acts are lawful unless and until they are quashed.
7. I have been provided with updates on the supply of housing land in the form of reports to, and minutes of, the Council's Local Plan Committee (LPC), the last of which took place on 20 November 2017. I have given the appellant the opportunity to comment on these and taken those comments into account in coming to my decision.

Main Issues

8. Taking the above into account, the main issue is whether the proposal comprises sustainable development with particular regard to the location of the site and the effect of the development on the character and appearance of the landscape.

Reasons

9. The Local Plan provides the statutory framework for managing development in Tendring. However, the Framework is a material consideration that carries very substantial weight in considering development proposals. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development, defined at paragraph 14 of the Framework. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

Housing land supply

10. At the time of determination of the planning application the Council acknowledged that it did not have a five year supply of deliverable housing land, but in subsequent monitoring they claim to have identified a supply of 5.1 years that has since been increased to 5.6 years.
11. The minutes of the LPC confirm the Council's view that it's objectively assessed need (OAN) for affordable and market housing should be 510 homes per year, plus the previous shortfall and a 20% buffer for persistent under-delivery as required by paragraph 47 of the Framework. This is reduced from 550 units suggested in the report to that LPC meeting, following advice from the Council's demographic consultant and including an allowance for market signals. The demographic consultant adjusted the need taking account of errors in the estimates of migration flows, latest views on future mortality rates and migration flows resulting in a demographically based assessment of the need for housing of 440 for the purposes of the assessment of a 5 year housing land supply. Adding a 15% allowance for market signals resulted in the figure of 510 homes per year. This approach reflects the advice contained within the Framework and Planning Practice Guidance that the OAN should be based on household projections adjusted to reflect appropriate market signals and other market indicators.

¹ References APP/1560/W/16/3164169 (Centenary Way) and APP/1560/W/17/3169220 (Sladbury's Lane)

12. The appellant suggests that I should put more weight on the findings of the Inspectors into the Centenary Way and Sladbury's Lane appeals, who concluded the figures should be 550 or 600 homes per year, but have not commented on the more recent findings of the demographic consultant. This matter will be considered in more detail during the examination into the draft LP but for the purposes of this appeal I find that the demographic consultant's findings update the Inspectors' conclusions in the appeals referred to.
13. For these reasons, I prefer the evidence from the Council's demographic consultant and conclude that the Council's stated OAN for affordable and market housing of 510 homes per year, plus the previous shortfall and a 20% buffer for persistent under-delivery has been justified.
14. The appellant has also queried the supply figures. The Council's analysis was updated following the hearing and appears to have taken account of some of the points raised in the updated figures supplied with the report to the LPC meeting. In particular, this related to pushing back the start date of certain developments. However, the appellant suggests that the delivery of some of the larger sites remains optimistic.
15. These include the Centenary Way and Sladbury's Lane developments. I accept that the timescales for the legal challenges are uncertain. The timescales suggested by the Council would result in the earliest completions during year 4, which would allow for the completion of the legal process and for housing completions on site to begin to come through. Consequently, I do not consider it appropriate to adjust the Council's figures in relation to this.
16. The other sites listed by the appellant have planning permission. In most cases the Council confirm that their figures for completions have been provided by the relevant developers. Whilst I accept that in some instances the developers may not yet have acquired the sites, I do not have sufficient evidence to conclude that the timescales are overly optimistic. In the remaining cases, there are other issues that need to be resolved that may affect delivery, although limited evidence has been provided to contradict the Council's conclusions.
17. Footnote 11 of the Framework states that sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years. I conclude that the evidence presented is not sufficiently clear to contradict the Council's conclusion that they will be completed in accordance with the timescales suggested. As such, completions set out in the Council's revised housing trajectory would meet the requirement of paragraph 47 of the Framework to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirement.
18. For the above reasons, I conclude that the Council has demonstrated that it has more than a 5 year supply of deliverable housing sites.

Location of the site

19. Policy QL1 of the LP sets a spatial strategy for Tendring that seeks to direct most new development to the larger urban areas, but allows limited development within the smaller towns and villages, including Alresford. Although that policy specifies an end date of 2011, the LP was saved by the

Secretary of State so continues to provide the statutory framework for managing development in Tendring.

20. Policy SPL2 of the draft LP provides a general presumption in favour of new development within development boundaries, but outside those boundaries applications would be considered against the settlement hierarchy and any other relevant policies. I have limited information as to the extent of objection to these policies and it is not clear that it would be considered consistent with the Framework following the examination process. Consequently, I consider that it is appropriate to attach only limited weight to these policies.
21. The aim of these policies is to direct most development to locations close to a range of services and facilities, including work in order to reduce the need to travel and encourage the efficient use of land within the existing urban areas. Development locations should be easily accessible by a choice of means of transport.
22. I note that planning permission has been granted in Alresford at land south of Cockaynes Lane for up to 145 dwellings (planning application reference 14/01823, although granted on appeal), land north of Cockaynes Lane for up to 60 dwellings (15/00120 also on appeal), Blue Gates Farm on Main Road for between 5 and 9 dwellings (16/00305) and land south of St Andrews Close for up to 45 dwellings (15/01277). All of these were granted during 2016. In addition, planning permission has been granted for 8 dwellings between this appeal site and St Osyth Road under reference 15/00674/OUT.
23. The site is located adjacent to the village and on a main road with some choice in means of transport, such that it is reasonably accessible. Nevertheless, that does not alter the overall aim of development plan policies and it would be outside the village as defined on the LP proposals map. The amount of development granted permission in Alresford recently is more than can be considered limited as set out in Policy QL1 of the LP. As such, further development in this location would be contrary to Policy QL1 of the LP and Policy SPL2 of the draft LP.

Character and appearance of the landscape

24. The appeal site comprises a field that contains two substantial buildings, both of which are metal clad and were built for equestrian purposes. The remainder of the field is open grassland. There is an extant planning permission for the change of use of the existing buildings to commercial use and for a large indoor ménage building adjacent.
25. The submitted plans suggest that access would be provided to the site from St Osyth Road, the area between the road and the appeal site having an extant planning permission for residential development. Over the road is the residential development of Alresford, with additional development to either side of the appeal site on St Osyth Road, which is a mix of residential and commercial development, as well as a horticultural nursery.
26. To the rear of the site boundary the grass field continues for some distance, with mature planting to both sides. Beyond is a large solar farm, comprising solar panels raised above the ground, which has been granted a temporary planning permission for 25 years, with a wind turbine adjacent. I note that

- other solar farms in the area have been seeking extensions for their operations for longer periods, although that is not currently the case with this solar farm.
27. My attention has been drawn to a number of vantage points from which the development may be seen. However, in most the site is obscured by topography or trees, such that any development would have very limited or no visual impact.
28. There are limited longer distance views toward the site from Church Road in Frating, over the valley of Tenpenny Brook with the solar farm in the foreground and the existing buildings on the site visible. Other development within the village to the rear of the site from this vantage point is largely obscured by trees, although that granted permission on the road frontage would be higher on the hill than the site and visible. The impact of the solar farm in the foreground is temporary, so carries limited weight in the consideration of the impact on the landscape of the permanent development proposed. Taking all that into account, the visual effect of the development on the surrounding landscape from this direction would be of minor adverse significance. Given appropriate landscaping within and around any development, that impact would reduce further over time.
29. Other views into the site are from St Osyth Road and the public footpath along the access to Blue Gates Farm. In these views, development on this site would extend the village beyond its existing limits and into the countryside. The houses with an extant planning permission on the frontage would restrict views over the site from St Osyth Road such that the impact of the development on the surrounding landscape from this location would be of minor adverse significance.
30. Similarly, there is an extant planning permission for bungalows on the field at Blue Gates Farm fronting St Osyth Road that would be more dominant in views from the public footpath on the access to the farm. The hedge and treed boundary to the site obscures views, such that the existing buildings are not visible. The topography of the site, sloping down away from the road, along with careful design and landscaping of any development would limit any impact of development on the landscape in views from the footpath. Consequently, the impact of the development on the surrounding landscape from the footpath at Blue Gates Farm would be of minor adverse significance.
31. For these reasons, I conclude that the effect on the character and appearance of the landscape from the proposed development would be minor, confined to the appeal site and limited views from surrounding roads and footpaths. However, that is sufficient to conclude that the proposed development would be contrary to Policy QL11 of the LP, Policy PPL3 of the draft LP and the Framework that seek to minimise adverse environmental effects, including that development should not lead to material loss of, or damage to, landscape value. My attention has not been drawn to the extent of objection to Policy PPL3 of the draft LP, and it is not clear whether this policy would be considered consistent with the Framework following the examination process. As such, I consider it can only be given modest weight in the decision making process.

Other matters

32. The UU would ensure additional landscaping around the site, including a bund, provision of 30% of the dwellings as affordable housing and contributions

toward education, healthcare and play space provision. I have been provided with justification by the Council that demonstrates the financial contributions would meet the requirements of the Community Infrastructure Levy Regulations 2010 (as amended), including relating to pooling restrictions. I am satisfied that the contributions would meet those requirements. The affordable housing and landscape improvements would comprise a material consideration in favour of the development of moderate weight, but the contributions toward infrastructure do not carry weight in this regard as they would be necessary to address the needs of the development.

Overall balance

33. I have concluded that the Council are able to demonstrate a five year housing land supply, such that relevant policies for the supply of housing are up to date in accordance with paragraph 49 of the Framework. Paragraph 14 of the Framework concerning the presumption in favour of sustainable development indicates that, in these circumstances, development proposals should be determined in accordance with the development plan.
34. I have concluded above that the proposed development would not accord with Policies QL1 or QL11 of the LP, nor Policies PPL3 or SPL2 of the draft LP. The conflict with these policies leads me to conclude that the proposed development would be in conflict with the development plan as a whole.

Conclusion

35. For the reasons set out above, I conclude that the proposed development would not accord with the development plan. The provision of affordable housing and landscape improvements are material considerations to which I give moderate weight, but this is insufficient to outweigh the conflict with the development plan. Thus, having had regard to all other matters raised the appeal should be dismissed.

AJ Steen

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Steven Bainbridge	Evolution Town Planning
Simon Neesam	The Landscape Partnership

FOR THE LOCAL PLANNING AUTHORITY:

Graham Nourse	Principal Planning Officer
Clive Dawson	Tree & Landscape Officer
Gary Guiver	Planning Manager
Cllr Ernie Osborne	Alresford Parish Council

INTERESTED PARTIES:

Mark Hanson	Neighbouring occupier
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DOCUMENTS SUBMITTED AT OR FOLLOWING THE HEARING:

- Document 1: Housing supply document from appellant
- Document 2: Policy SPL2 of the draft LP
- Document 3: Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990
- Document 4: Appeal decision reference APP/P1560/W/17/3169220 land north west of Sladbury's Lane, Clacton, Essex CO15 4BG
- Document 5: Officer Report to Local Plan Committee of 2 November 2017
- Document 6: Officer Report to Local Plan Committee of 20 November 2017
- Document 7: Minutes of Local Plan Committee of 20 November 2017