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## Appeal Decision

Site visit made on 2 October 2018

**by Jonathan Price BA(Hons) DMS DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 October 2018**

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**Appeal Ref: APP/P1560/W/18/3197441**

**Pond Farm, Hall Road, Great Bromley, Essex CO7 7TP**

- 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 M Volf (Stour Valley Construction and Groundworks) against the decision of Tendring District Council.
  - The application Ref 17/00545/OUT, dated 31 March 2017, was refused by notice dated 28 September 2017.
  - The development proposed is community led development of shops, offices, restaurant and houses, including parking, new footpath and open space.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was made in outline with all detailed matters reserved for later determination and I have dealt with the appeal accordingly. Consideration has been given to the indicative plan of the community-led development. This shows the arrangement of dwellings and includes the new site access onto Hall Road, a play area and open space, the restaurant, tea rooms/delicatessen, fruit and vegetable shop, post office, car parking and small business units.
3. Subsequent to the appeal the appellant has provided a completed Unilateral Undertaking (UU) to make both a proportion of the dwellings proposed available as affordable housing and a financial contribution towards meeting school transport and open space needs. This addresses the Council's third reason for refusal over the lack of such an obligation and which therefore falls away.
4. On 24 July 2018, since this appeal was made, Government published the revised National Planning Policy Framework (the Framework), which is a material consideration. Having granted the parties an opportunity to make further comment, my decision reflects this.

### Main Issues

5. The main issues are:
  - whether the development would be appropriate in this location taking into account local and national planning policy;
  - the effect on the character and appearance of the area, including the surrounding rural landscape.

## Reasons

### *Local and national planning policy considerations*

6. The development centres on Pond Farm and the associated land adjacent to Hall Road and Colchester Road at Bromley Cross. There is a limited amount of existing development in this location, including some short sections of road frontage housing, and its character is rural and predominantly that of countryside. The housing indicated includes a small section continuing that already fronting Colchester Road, with the major amount arranged in a horseshoe around a green space extending into open land to the other side of Pond Farm, served by a new access from Hall Road.
7. The village of Great Bromley is about one mile further along Hall Road, separated by largely undeveloped farmland. The development plan defines a settlement boundary around this small village but the appeal site is far removed from this and within countryside for the purposes of local planning policy.
8. Planning law requires this proposal be determined in accordance with the development plan, unless material considerations indicate otherwise. The current development plan is therefore my starting point and this comprises the saved policies of the Tendring District Local Plan of 2007 (LP). As the Council's emerging Local Plan has yet to be fully examined, and so cannot be given more than quite limited weight, my decision is based on the current LP.
9. The strategic objectives of the LP include making efficient use of urban land, particularly that previously-developed, directing development to places with good accessibility by a choice of transport modes and close to jobs, shops and other facilities, and seeking the regeneration of towns whilst supporting rural communities and a balanced rural economy.
10. To this end the spatial strategy of LP Policy QL1 is to steer most development to the urban areas, where there is a wide range of services and choice in travel modes, and a more limited amount consistent with community needs within the settlement development boundaries (SDB) defined for villages. Unless part of a specific land allocation, development outside of a SDB is permitted only where consistent with countryside policies.
11. The appellant's case is that any development which would not significantly harm landscape character or quality would be consistent with countryside policies, and therefore comply with LP Policy QL1. Leaving aside whether there would be landscape harm, which is addressed in the second main issue, I do not entirely agree with this interpretation of policy. I consider the intention of LP Policy QL1, to concentrate development within SDBs, is to prevent sporadic and ribbon development both to protect the countryside setting of villages and also to focus homes near to where there is a good range of existing services, so as to reduce dependence on private car use and encourage walking, cycling and public transport.
12. Neither do I consider that the Inspector in the recent appeal decision<sup>1</sup> allowing 67 dwellings in Mistley was applying Policy QL1 in the way the appellant construes. In that case it was not a matter of dispute that the site was in a sustainable location and the Inspector was assessing the degree to which LP

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<sup>1</sup> APP/P1560/W/17/3176089

policies were out of date in respect of their consistency with the Framework in the context of the overall planning balance, which comes later in this decision. Unlike that proposal, this development would introduce up to 32 dwellings in a location outside of any SDB where facilities are relatively lacking.

Notwithstanding a bus service, community pub and the various facilities proposed in this scheme, most new occupiers of the housing proposed would remain relatively reliant on car journeys to access regularly required needs, such as schools and employment.

13. Therefore I find the proposal would conflict with LP Policy QL1, the spatial strategy of which seeks to follow national principles for sustainable development by concentrating most new development in larger urban areas, a lesser amount in smaller towns and villages and restricting that in the countryside outside SDBs.
14. LP Policy QL1 remains consistent with the Framework which in paragraph 103 seeks the planning system actively manages patterns of growth in support of promoting sustainable transport, whereby significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. It states that this can help to reduce congestion and emissions, and improve air quality and public health.
15. The proposal is quite evidently not in an area allocated for such a development and would thus not be supported by the LP and thereby conflicts with the Framework advice that the planning system should be genuinely plan-led. Whilst the Council is at a relatively advanced stage in producing an up-to-date plan, the current LP remains consistent with paragraph 16 of the Framework having been prepared with the objective of contributing to the achievement of sustainable development.

*Character and appearance of the area, including the surrounding rural landscape*

16. The appeal site is within a flat plateau containing scattered development and surrounded mainly by farmland with large fields edged with hedges and well-spaced, mature trees. Such a flat landscape would not involve long-distance views of the site, although the development would be visually apparent in closer positions from the adjacent roads and nearby footpaths.
17. Screening the development from the most prominent public views would depend on the maturing of the proposed planting in and around the site, including the belt of native trees and shrubs on the eastern edge alongside the road. However, planting around a development to screen what is proposed is not to my mind a good indicator that a proposal would fit in with the character of its surroundings. The development proposed, particularly the horse-shoe estate of housing extending into undeveloped countryside, would be alien in form and character to that in Bromley Cross and have a harmful suburbanising impact entirely at odds with the surrounding and largely rural landscape.
18. The proposal has been the subject of a Landscape and Visual Impact Assessment (LVIA) carried out by The Landscape Partnership<sup>2</sup> and to which I have had regard. The surrounding landscape is not the subject of any particular protective designation and I agree it might well not merit being

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<sup>2</sup> Written Statement of Simon James Neesam, The Landscape Partnership, February 2018

considered of particularly high value. LP policy EN1 seeks to protect, and where possible enhance, the quality of the district's landscape and distinctive local character. It states that any development which would significantly harm landscape character or quality will not be permitted. This policy addresses the quality of the district's landscape and its distinctive character generally, not exclusively where it is of particularly high value.

19. The LVIA concludes the proposal would not significantly harm the character and quality of what is considered not to qualify as a valued landscape. Regardless of the relative value placed on this landscape, the incursion of a suburban form of housing into open countryside away from any significantly-sized settlement would quite clearly not meet the requirement of LP Policy EN1 to either protect or enhance the quality or distinctive local character of this rural part of Tendring.
20. This policy remains consistent with paragraph 170 of the Framework which seeks that planning decisions contribute to and enhance the natural and local environment. Whilst the appeal site might not form part of, or merit consideration as, a valued landscape which the Framework requires should be protected or enhanced, national policy nonetheless requires that planning decisions recognise the intrinsic character and beauty of the countryside. Although the visual impacts of this proposal might not be far reaching, the development would nonetheless harm the essential character and appearance of this area of countryside contrary to LP Policy EN1, which seeks that it should be protected or enhanced.

### **Planning Balance and Conclusion**

21. Paragraph 11 of the Framework applies the presumption in favour of sustainable development. For decision making this means where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against Framework policies taken as a whole. This is commonly referred to as the 'tilted balance'. For applications involving the provision of housing footnote 7 qualifies out of date to include situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
22. Based on the recent appeal decision of 13 September 2018<sup>3</sup>, following an Inquiry over residential development at Ardleigh elsewhere in this district, it is accepted that the Council can at the present time demonstrate at least the five year housing land supply required by paragraph 73 of the Framework, although this evidently remains a volatile situation. However, because the spatial strategy set by LP Policy QL1 was drafted to meet development needs up to 2011 it is out of date and the 'tilted balance' must be engaged for this reason.
23. To achieve the interdependent economic, social and environmental objectives of sustainable development the Framework seeks that the planning system pursues these in mutually supportive ways.
24. The Council's proven five year housing supply does not place a ceiling on delivery and there would be moderate social benefits provided by the

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<sup>3</sup> APP/P1560/W/17/3185776

up to 32 dwellings proposed, particularly as this would include a broadly policy-compliant level of affordable units. There would be further social benefits should the housing bring with it the proposed fruit and vegetable shop, the post office, restaurant, delicatessen/tea room and play area which would be accessible other than by private car to the existing and proposed residents in Bromley Cross. The UU over financial contributions towards meeting education and open space needs also provide positive weight in this planning balance.

25. There would be moderate local economic benefits from the construction and future servicing of the development and through the provision of some small business units. There would be some environmental benefits from the proposed landscaping, including the native trees planted and the green spaces and pond provided.
26. Notwithstanding the merits of the community element incorporated with the residential development, there would remain significant adverse impacts from the conflict with a plan-led spatial strategy established by LP policy QL1, to which I give substantial weight. Whilst of date in respect of its time-frame this policy nonetheless remains consistent with the Framework objectives for sustainable development. There would be considerable environmental harm in providing a substantial amount of housing in a location relatively lacking in services whereby occupiers would be required to make regular private car trips to fully access their needs. This environmental harm would be compounded by that caused by a large and uncharacteristically suburban form of housing encroaching into open countryside. Therefore, the adverse impacts of approval would be such as to significantly and demonstrably outweigh the benefits provided by the development.
27. On this basis the proposal would not achieve the presumption in favour of sustainable development as provided through the Framework. Consequently, material considerations would not indicate this proposal should be determined other than in accordance with the development plan. I conclude therefore that the appeal should be dismissed.

*Jonathan Price*

INSPECTOR