
Appeal Decision

Site visit made on 20 January 2015

by Ron Boyd BSc (Hons) MICE

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

Decision date: 11 February 2015

Appeal Ref: APP/P1560/A/14/2215652

Land at Elm Farm, Little Clacton Road, Clacton-on-Sea, Essex CO16 8DZ

- 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 & Mrs T and M A Wild against the decision of Tendring District Council.
 - The application Ref 13/01179/OUT, dated 16 October 2013, was refused by notice dated 14 January 2014.
 - The development proposed is outline planning application with all matters reserved for residential development.
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Decision

1. I dismiss the appeal.

Procedural matter

2. The application is in outline with all matters reserved but the Planning Statement, submitted with the application, explains that the proposal includes demolition of the agricultural buildings at present on the site. It suggests that up to 25 dwellings, predominately detached two-storey houses, possibly with some having a second storey within the roof space, could then be accommodated on the site. Six of these are proposed as affordable. I have dealt with the appeal on that basis.

Main issue

3. The appeal site lies in an area outside the Settlement Development Boundary for Clacton. The development plan restricts development in such areas. I consider the main issue to be whether there are sufficient material considerations to justify the proposed development notwithstanding the development plan restrictions, having particular regard to:
 - the effect it would have on the character of its countryside surroundings;
 - whether sufficient information has been submitted to demonstrate the effect upon biodiversity and protected species;
 - whether the proposal would represent sustainable development; and
 - whether appropriate provision would be made for additional educational and open space facilities necessitated by the proposed development.

Reasons

Policy background

4. The development plan for Tendring is the Tendring District Local Plan 2007 Adopted December 2007 (the Local Plan). The Council is currently preparing a new local plan and the version published for consultation in January 2014 is the current emerging Local Plan. However, at its present early stage of development, with final consultation, prior to submission to the Secretary of State for examination in public, not programmed until late 2015, the policies in the emerging Local Plan can be afforded only limited weight.
5. Local Plan Saved Policy QL1 states that outside defined settlement boundaries only development which is consistent with countryside policies will be permitted. Such policies deal with affordable, replacement, or agricultural dwellings. The proposed development is none of these. However, the Council accepts that it cannot demonstrate a deliverable five year supply of housing land and that accordingly, as set out in the National Planning Policy Framework (the Framework) its housing supply policies, including Policy QL1 can not be considered as up-to-date.
6. In such circumstances, that the site lies outside the settlement boundary is not sufficient reason on its own to dismiss the appeal. The proposal has to be considered on its merits in the light of the presumption, stated in the Framework, in favour of sustainable development. This means, for sustainable development proposals, that permission should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole.

Character and appearance

7. The appeal site is an L shaped area of some 0.95 hectares abutting the back gardens of houses on the north and west sides of Cleave Close on the west side of Little Clacton Road some 500m north of its junction with St John's Road. The northern leg of the site is occupied by a group of agricultural barns and buildings. To the west and south of the barns the site encloses the irregularly shaped north east corner of an arable field thus 'squaring up' the field. Access into the site from Little Clacton Road is at the north-eastern corner of the site and is shared with Elm Farm House which lies to the immediate north.
8. The settlement boundary westwards from Little Clacton Road runs along the back garden boundaries of the dwellings on the north and west sides of Cleave Close and is defined by a ditch. It marks a clear line of distinction between the urban area typified by modern estate development and the countryside beyond. The line continues east of the road. Development of the appeal site as an isolated protuberance beyond this line would appear as an expedient and unresolved incursion into the countryside, contained by arbitrary boundaries to the north and west, rather than as an example of the principle of actively managed growth referred to in the Framework. I conclude it would be an unplanned advance of urbanisation into the countryside blurring the distinction between urban and rural land use to the detriment of the character of its rural surroundings. For this reason I conclude the proposal would be harmful to the character of the surrounding countryside.

Biodiversity and protected species

9. No Phase 1 Habitat Survey or bat activity survey was submitted with the application. However an Extended Phase 1 Habitat Survey has been submitted with the appeal documentation and the Council has advised that it accepts its conclusions and recommendations. As the Council suggests, were I to be allowing this appeal, I would impose a planning condition in respect of implementation of the Survey's recommendations.

Sustainability

10. Considering the proposal against the three dimensions to sustainable development there would be some economic benefit in terms of employment generated by the construction of the 25 dwellings indicated. Also a social benefit from the contribution of 25 homes to the District's housing stock. I note the proposal for 6 of the houses to be affordable but, in the absence of a planning obligation to secure this, little weight can be attached to the intention.
11. In terms of location the site is immediately adjacent to, and the proposed housing would be contiguous with recently completed housing development within, the settlement boundary. Future occupants would, to all intents and purposes, enjoy the same benefits as their neighbours to the south in terms of the facilities identified by the appellant as part of that development, including a public hall and health and retail facilities. Buses into Clacton are available a few minutes walk from the site subject to improvement of pedestrian access along Little Clacton Road north of Legerton Drive. The site cannot be considered to be in an unsustainable location.
12. However in environmental terms the proposed development would neither protect nor enhance the natural environment, a key role for the planning system in contributing towards sustainable development as identified in the Framework. In breaching the present physically defined settlement boundary the proposal would represent an intrusion into, and an incremental erosion of, the adjoining countryside. To my mind the proposal's weakness in this respect outweighs the benefits identified above and precludes it being considered in the round as sustainable development.

Contributions to education and open space

13. Local Plan saved Policy COM26 states that where necessary planning permission will only be granted for residential developments of 12 or more dwellings if land and/or financial contributions are made to provide the additional school places that will be needed to serve the development. Essex County Council as Education Authority has identified a shortfall in primary school places. The appellant has not disputed this and advises that a draft planning obligation has been submitted to Essex County Council. However no completed obligation has been submitted to me.
14. Similarly a shortfall in the provision of play area and public open space in Little Clacton was identified in the Council's *Summary of Play Area and Sports Pitch Need by Town and Parish Area February 2011*. Local Plan Saved Policy COM6 requires a financial contribution from residential development below 1.5 hectares where existing public open space facilities are inadequate. No completed obligation in this respect has been submitted to me.

15. In the light of the above I conclude that the proposal has not made appropriate provision in respect of additional educational and open space facilities that would be necessitated by the development. As such the proposal conflicts with Local Plan Saved Policies COM26 and COM6.

Conclusion

16. The Framework's presumption in favour of sustainable development is a material consideration. However, as I have identified above, the proposal as a whole does not amount sustainable development. It would cause harm through its effect on the character of its countryside surroundings and by the failure to make appropriate provision for the additional primary school places and public open space facilities that would be required to serve the development. I conclude that, notwithstanding that the Council's housing supply policies can not be considered as up to date, there are insufficient material considerations to outweigh the harm that would result from the proposed development.
17. I have taken account of all the matters raised in the evidence including the deliverability of the site and that neither the Highway Authority nor the Council's Landscape Officer has raised any objection to the proposal subject to conditions. However, neither these, nor any of the matters raised, are sufficient to outweigh my conclusion in respect of the main issue which has led to my decision on this appeal. For the reasons given above I conclude that the appeal should fail.

R.T.Boyd

Inspector