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## Appeal Decision

Site visit made on 30 January 2019

**by Martin H Seddon BSc DipTP MPhil MRTPI**

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

**Decision date: 9 September 2019**

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**Appeal Ref: APP/P1560/W/18/3205073**

**Land west of Mill Lane, Thorpe Le Soken, Essex, CO16 0ED**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr G Curtis against the decision of Tendring District Council.
  - The application Ref:17/00874/FUL, dated 12 May 2017, was refused by notice dated 15 December 2017.
  - The development proposed is demolition of buildings and replacement with a dwelling.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The National Planning Policy Framework ('the Framework') was revised in February 2019, primarily concerning the determination of housing land requirements. The main parties in this appeal were provided with the opportunity to comment on the revised Framework and the housing land supply in the District.
3. The development plan for Tendring is the adopted Tendring District Local Plan (2007) ('LP'). The emerging Local Plan is the Tendring District Local Plan 2013-2033 and Beyond, Publication Draft. Only limited weight may be accorded to policies in the emerging plan.

### Main Issue

4. The main issue is whether the proposed development would provide a suitable site for housing, having regard to the effect on the character and appearance of the Thorpe Le Soken Conservation Area.

### Reasons

#### *Thorpe Le Soken Conservation Area*

5. The appeal site includes a small derelict two storey building, and single storey farm buildings set in an area of overgrown vegetation and tree cover. It is located to the rear of a bowling green and within the Thorpe Le Soken Conservation Area. To the north-east are recently built dwellings at the rear of Harry's bar. Access would be from Mill Lane, using a narrow unmade track which passes between the dwellings of Meadow View and Mill Villas.

6. An application for a dwelling at land to the rear of Pitts Meadow was allowed by the Council in 2017. The site was served by the same access road as the appeal site before me. However, it involved replacement of an old outbuilding within a small field set behind existing dwellings sited along Mill Lane. The site is outside the settlement boundary in the adopted Local Plan, but within the settlement boundary in the emerging development plan.
7. The Thorpe Le Soken Conservation Area is based upon the historic buildings which line the sinuous main street. Trees frame the buildings and spaces and contribute towards its character and appearance. Statutory requirements of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The National Planning Policy Framework (the Framework) states that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation and that significance can be harmed or lost through development within their setting.
8. The proposed dwelling would be of an appropriate design and use of external materials for its rural location. It would be located next to the village bowling green to the north, undeveloped land to the south and open agricultural land to the west. The site differs in character from surrounding land through its tree and shrub cover with its associated amenity and wildlife value.
9. The introduction of a dwelling would change the character of the land from an incidental area of tree and shrub cover to a dwelling with a domestic curtilage and eroding its locally distinctive rural character. A tree survey has been carried out and determined that some trees may be retained. However, the trees to be felled would include an area of tree and shrub cover which is classed as 'high' under the visual category. Even though they may not be worthy of a Preservation Order, the felling of trees to accommodate the development would have a negative impact on their amenity value as a whole and would fail to preserve or enhance the character or appearance of the Conservation Area.
10. The proposal would conflict with LP policy EN17 and emerging LP policy PPL 8 which seek to ensure that proposals preserve or enhance the character or appearance of Conservation Areas.

*Whether a suitable site for housing*

11. The Council has advised that it cannot currently demonstrate a 5 year supply of deliverable housing sites. In such circumstances paragraph 11(d) of the Framework applies and the policies which are most important for determining the application are out-of-date.
12. Saved LP policy QL1 sets out the development plan's spatial strategy, which restricts development outside settlement boundaries. Thorpe Le Soken is identified as a village in the adopted LP and defined as a rural service centre in policy SPL 1 of the emerging LP. In that respect the site would be in a sustainable location with good access to services and community facilities within the village. The emerging plan indicates that smaller rural settlements can achieve a small scale increase in housing stock. Settlement boundaries have therefore been drawn flexibly to accommodate a range of sites both within and at the edge of villages, enabling them to be considered for small

scale residential infill. The site is outside the settlement boundary and within the open countryside. The boundary was drawn at this point to reflect the change in landscape character when compared with the more built up settlement area. On that basis, the proposal would conflict with the spatial strategy policies in the adopted LP. Although the policies in the development plan are out of date, moderate weight may be attached to the conflict with LP policy QL1.

### **Planning balance and conclusion**

13. Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The proposal would result in the construction of an additional dwelling and the dilapidated buildings would be replaced. However, the benefits would primarily be private rather than public and do not outweigh the considerable importance and weight I give to the desirability of preserving or enhancing the character or appearance of the Thorpe Le Soken Conservation Area.
14. The Council has not disputed the lack of a 5-year housing land supply. Because this is an application for the provision of housing, policies which are most important for determining the application are out-of-date<sup>1</sup>. However, given the harm I have identified to a designated heritage asset, the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development proposed<sup>2</sup>. As such the proposal would not be sustainable development.
15. For the reasons given above, the proposal would conflict with the development plan. Material considerations, including the Framework do not indicate a decision should be taken other than in accordance with it. Having considered all other matters raised I conclude that the appeal should be dismissed.

*Martin H Seddon*

INSPECTOR

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<sup>1</sup> Footnote 7 of paragraph 11 (d) of the Framework.

<sup>2</sup> Paragraph 11 (d) (i) of the Framework.