

Appeal Decision

Site visit made on 3 January 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 20th January 2017

Appeal Ref: APP/Z1510/W/16/3156527

Tilkey Road, Coggeshall, Essex

- 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 planning permission.
 - The appeal is made by Mr Richard Ramsey against Braintree District Council.
 - The application Ref 15/01373/FUL, is dated 5 November 2015.
 - The development proposed is the erection of 5 dwellings, estate road, footpaths, garages, public open space, foul and surface water drainage and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 5 dwellings, estate road, footpaths, garages, public open space, foul and surface water drainage and landscaping at Tilkey Road, Coggeshall, Essex, in accordance with the terms of the application, Ref: 15/01373/FUL, dated 5 November 2015, subject to the conditions in the attached schedule.

Preliminary Matters

2. The certificate of ownership and declaration within the planning application form are undated. The Council nevertheless registered the application on the 5 November 2015. I have therefore taken this as the date of the application in my formal decision. In the absence of a decision notice, I have also taken the application number from the Council's appeal statement.
3. The appellant submitted his appeal following the Council's failure to give notice of its decision within the prescribed period. The Council have provided an appeal statement outlining its concerns with the appeal scheme, which relate to the effect of the proposal on the character and appearance of the area. I have therefore treated this as an indication from the Council that, had it been in a position to determine the application, it would have refused it for a reason along these lines. I have considered the appeal accordingly.

Main Issue

4. The effect of the proposed development upon the character and appearance of the area, including the local landscape.

Reasons

5. The appeal site is located towards the northern extent of Tilkey Road, a predominately residential street radiating out from the centre of Coggeshall.
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Whilst the street begins to have a more rural character within the vicinity of the appeal site due to the narrow width of the road and the presence of open views across the appeal site towards farmland, it is nonetheless a suburban street with no overriding architectural style or form. Consequently, the built form along the street is somewhat organic and disjointed. There is however, some harmony in the street scene provided by the linear form of development and the orientation of properties in active frontages that address the road.

6. The appeal site encompasses a smaller part of a much larger arable field. The boundary of the field with Tilkey Road is marked by a dense hedgerow that is an important landscape feature that currently delineates the built form of the village from the countryside beyond. The appeal scheme would result in five dwellings being constructed behind this hedge. Consequently, the proposed development would inherently urbanise the appeal site, which would result in a limited effect upon the open and undeveloped character of the appeal site.
7. Moreover, the siting of the proposed dwellings behind the hedge would also prevent any direct interaction between the properties and Tilkey Road. In this respect the development would appear somewhat disassociated with the properties on the western side of the road as well as the street itself. An effect that would not be aided by the position of the internal estate road as a barrier between the proposed dwellings and Tilkey Road.
8. However, any limitations in the layout that may arise from a perception of disassociation would be tempered by the arrangement of the dwellings in a way that would permit them to face Tilkey Road, which is an orientation that would be visible over the hedge. Moreover, the presence of a new footpath within the development would encourage existing and future residents to pass through. This would ensure that the proposed development becomes an inclusive section of townscape rather than an entirely separate and segregated pocket of development. The provision of a public open space at the site entrance next to the existing right of way would also ensure the development successfully addresses, and feels part of, the public realm in a physical sense whilst also providing space for informal interaction between existing and future residents.
9. Plots 1 and 2 would be set back a significant distance from Tilkey Road behind the proposed open space. Nevertheless, the orientation of the proposed dwellings overall would enable the development to still exhibit a linear character, which would be appreciated from within the appeal site from the proposed footpath and to some extent from Tilkey Road. The linear character of the proposed development would echo that found elsewhere in Tilkey Road. The development would also 'read' as a logical infill as it would be positioned between Nos 75 and 100 Tilkey Road, which are dwellings located within established built frontages running north to south on the eastern side of Tilkey Road. These factors would assist in integrating the development into the grain of the built form along Tilkey Road. The use of a traditional pallet of materials and forms would also enable the proposed dwellings to positively respond to local distinctiveness.
10. Due to the very low density of the scheme, which the Council and Parish Council suggest would not be an optimal use of the appeal site, the proposed dwellings would be large and set in comparatively wide plots. In some respects the low density of the appeal scheme would jar with the higher density housing on the western side of Tilkey Road. However, the lower density of the appeal

scheme would enable the provision of extensive landscaping and a public open space within the development. This would assist in softening the impact of the development, which would be situated on the edge of the village in a transition zone between the built form of Coggeshall and the open countryside beyond.

11. The appellant has also indicated that because the width of Tilkey Road narrows in the locality of the appeal site additional houses could present concerns in respect of highway safety. I have no reason to disagree with this analysis. In light of this possible constraint, the appeal scheme appears to be optimising the use of the site. As such, whilst the low density of the appeal scheme is a limitation it is not a matter that weighs significantly against the proposal.
12. The housing in Tilkey Road is not entirely comprised of small terraced houses. There are some reasonably large detached houses in the vicinity of the appeal site's access. Whilst these properties are located closer to one another than the dwellings in the appeal scheme would, the scale and massing of the proposed dwellings would be similar to these larger properties and thus characteristic of the wider street scene.
13. The site levels present a challenge, with the appeal site being on notably higher ground than Tilkey Road. Nevertheless, I am satisfied that the retention of the existing road side hedge, along with the siting of the proposed dwellings back from the edge of the road, would be sufficient in ensuring the development would not be unduly imposing when viewed from Tilkey Road. This would be further aided by the single storey heights of Plots 4 and 5 and from Plots 1-3 being arranged with accommodation in the roof with well-proportioned dormer windows. The massing of the dwellings would also be broken up into primary and secondary elements and features such as chimneys would assist in articulating the form of the buildings. As such, I am satisfied the proposed dwellings would not appear overly large relative to surrounding properties.
14. When viewed from the public footpaths to the south and east of the appeal site the development would present rear elevations to the open countryside. Nevertheless, the development would be viewed in the context of other edge of village housing including that in St Nicholas Way, which also presents rear elevations to the countryside. In this respect, the development would not appear out of place. Moreover, it would not be of a size that would undermine the existing 'green lung' currently found between the A120 and Coggeshall. It is also noteworthy that the appeal site is located in a defined Landscape Setting Area, which has a medium capacity to accommodate additional development due to the presence of modern housing on the settlement edge¹.
15. To assist in softening the impact upon the landscape a comprehensive planting scheme is proposed along the eastern boundary of the appeal site, which would include trees as well as hedging. Whilst this would take time to mature, once established it would provide a soft boundary to the appeal scheme and the settlement in a more general sense. Care would need to be taken with the external boundaries of the individual plots to ensure there is not an unsightly proliferation of fencing. This could be secured through a planning condition. Furthermore, the generous gaps in-between the proposed dwellings, as well as

¹ See The Landscape Capacity Analysis Study of Coggeshall by The Landscape Partnership, which places the site in Landscape Setting Area C1. This area has medium capacity to accommodate additional development and was not assessed further, unlike other areas around Coggeshall, due to its higher overall potential to accommodate development. The appellant suggests this study forms part of the evidence base of the new local plan currently under preparation. I have no reason to disagree and therefore afford its findings significant weight.

the additional planting within the public open space, would also soften the impact on views from the countryside. As a consequence, the urbanising impact of the development upon the countryside would not be significant.

16. I therefore conclude that whilst the appeal scheme would have some limitations, it would nevertheless preserve the character and appearance of the area, including the local landscape. The proposal would thus adhere to saved Policy RLP90 of the Braintree District Local Plan Review 2005 and emerging Policies LLP 46 and LLP 59 of the Draft Local Plan, which requires new development to recognise and reflect local distinctiveness. Aims consistent with Paragraphs 17, 56 and 58 of the National Planning Policy Framework.

Other Matters

17. It is common ground between the Council and appellant that the site is located outside of the village envelope of Coggeshall and is thus within the countryside. The proposal is residential development in the countryside and therefore runs contrary to the broad aims of the development plan. An application should be determined in accordance with the development plan unless material considerations indicate otherwise. As a material consideration the Council cannot currently demonstrate a five year housing land supply as required by Paragraph 47 of the Framework. Accordingly, the policies in the development plan that restrict the supply of housing are out of date, including those defining the village envelope of Coggeshall.
18. In such circumstances Paragraph 14 of the Framework is engaged. It states that where relevant policies in the development plan are out of date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Paragraph 55 of the Framework states that housing should be located to enhance and maintain the vitality of rural communities by avoiding isolated homes in the countryside. The Council have not alleged that the proposed dwellings would be isolated, a conclusion I share given the appeal site's physical and functional links to Coggeshall. Consequently, the appeal site's location outside the settlement boundary of Coggeshall is not a determinative matter in this instance. This is especially so in this instance, as there would be no overall harm to the character and appearance of the area from breaching the settlement boundary.
19. Subject to a suite of planning conditions the Highway Authority have not raised any technical objections to the appeal scheme in respect of parking and highway safety more generally. Substantive evidence has not been presented by any party that would justify me reaching a different conclusion. Likewise, I have seen no technical evidence to suggest that surface water could not be adequately managed within the appeal site through the swale, permeable paving and large permeable areas, including the open space and rear gardens.
20. The proposal would result in the loss of some agricultural land but the loss would not be significant and would be outweighed by the benefits that would be accrued from housing delivery. Moreover, it has not been demonstrated how Coggeshall could provide additional housing without some reliance on agricultural land. Due to the intervening distances and the retention of the roadside hedge, the appeal scheme would not injure the living conditions of existing residents. There may be some impacts arising from the construction of the dwellings but this would be short lived and would not amount to harm.

21. Reference has been made to an emerging neighbourhood plan but I have not been presented with any draft policies and both the appellant and Council have suggested it is at an early stage and thus cannot be afforded any meaningful weight. In the absence of any details in respect of the emerging neighbourhood plan, it is not a matter to which I can attach anything but very limited weight.
22. Moreover, I have not been presented with substantive evidence to suggest existing infrastructure in the village could not accommodate the demands of the residents that would live in the proposed dwellings. Whilst the dwellings would be large, there is nothing before me to suggest they would not positively add to housing choice in the village or that there is an acute need for smaller properties. I have carefully considered the matters raised by interested parties but none have altered my findings on the main issue or the appeal overall.

Conditions

23. I have had regard to the advice in the Planning Practice Guide and the list of suggested conditions submitted by the Council. In addition to the 3 year commencement period I consider it is necessary in the interests of safeguarding the character and appearance of the area to attach conditions requiring the development to be implemented in accordance with the submitted drawings and for the precise details of finishing materials (including samples), boundary treatment and hard and soft landscaping to be approved. For the same reason it is necessary to protect the existing road side hedge through the submission of a management scheme. The management scheme is required prior to the commencement of development to ensure the necessary control measures are in place before works start.
24. In the interests of safeguarding the living conditions of neighbours, it is necessary for the Council to approve details of external lighting. I have however simplified this condition to ensure it is not overly onerous. For the same reason it is necessary to control the hours of work and the other aspects of construction suggested by the Council. To protect potentially unknown archaeology, a scheme of investigation needs to be approved prior to development starting. In the interests of highway safety it is necessary to require bound surface treatments at the site access and the provision of adequate visibility splays. In the interests of managing surface water, a drainage scheme must be approved. This scheme can incorporate measures to prevent discharge into the highway so I have not imposed the separate condition suggested by the Council in this respect.

Conclusion

25. The appeal scheme would urbanise an existing undeveloped site outside the settlement boundary. Nevertheless, it would preserve the character and appearance of the area. Moreover, the settlement boundary is out of date. The proposal would also, in a modest way, support the rural economy and housing supply. These are noteworthy benefits. As such, I do not consider any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. I therefore find the proposal to be sustainable development. Accordingly, I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall commence not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents with the exception of the traffic priority road marking shown on Site Layout Drawing 1473-P001, which is not approved by this planning permission.
 - 1473. P001, P002, P003, P004, P005, P006, P007, P008, P009, P010, P011, P012, P013, P014, P015 and P016
- 3) Prior to the occupation of the development, the access at its centre line shall be provided with a visibility splay with dimensions of 2.4 meters by 60 metres to the north and 2.4 metres by 60 metres to the south, as measured from and along the nearside edge of the carriageway. The area within each splay shall be kept clear of any obstruction exceeding 600mm in height at all times.
- 4) No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary of the site.
- 5) No site clearance, demolition or construction work shall take place on the site, including starting of machinery and delivery of materials, outside the following times:- Monday to Friday 0800 hours - 1800 hours, Saturday 0800 hours - 1300 hours and no work on Sundays, Public and Bank Holidays.
- 6) No piling shall be undertaken on the site in connection with the construction of the development until a system of piling and resultant noise and vibration levels has been submitted to and agreed in writing by the Local Planning Authority and shall be adhered to throughout the construction process.
- 7) Development shall not be commenced until a dust and mud control management scheme has been submitted to and approved in writing by the Local Planning Authority and shall be adhered to throughout the site clearance and construction process.
- 8) No development or preliminary ground works of any kind shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.
- 9) Development shall not be commenced until details of the means of protecting the existing hedge on the western boundary of the site from damage during the carrying out of the development have been submitted to the local planning authority for approval. The approved means of protection shall be installed prior to the commencement of any building, engineering works or other activities on the site and shall remain in place until after the completion of the development.

No materials, goods or articles of any description shall be stacked, stored or placed at any time within the limits of the spread of the existing hedge.

No works involving alterations in ground levels, or the digging of trenches, or excavations of any kind, (including the laying or installation of drains, pipes, cables or other services) shall be carried out within the extent of the spread of the existing hedge unless the express consent in writing of the Local Planning

Authority has previously been obtained. No machinery of any kind shall be used or operated within the extent of the spread of the hedge.

The Local Planning Authority shall be notified in writing at least 5 working days prior to the commencement of development on site.

- 10) Notwithstanding the submitted details and prior to the first occupation of the development hereby approved details of all gates/fences walls or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The details shall include position, design, height and materials of the enclosures. The enclosures as approved shall be provided prior to the occupation of the development hereby approved and shall be permanently maintained as such thereafter.
- 11) Prior to the occupation of the development hereby approved a scheme of soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate a detailed specification including plant/tree types and sizes, plant numbers and distances, soil specification and seeding and turfing treatment.

All planting, seeding or turfing contained in the approved details of the landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development unless otherwise previously agreed in writing by the Local Planning Authority.

Any trees or plants which die, are removed, or become seriously damaged, or diseased within a period of 5 years from the completion of the development shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.

- 12) Prior to the occupation of the development hereby approved a scheme of hard landscaping shall be submitted to and approved in writing by the local planning authority. The scheme shall incorporate a detailed specification including colour and type of material for all hard surface areas and method of laying where appropriate. All areas of hardstanding shall be constructed using porous materials laid on a permeable base unless otherwise agreed in writing by the Local Planning Authority. All hard surface areas agreed as part of the scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier
- 13) Details of any proposed external lighting to the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to installation. All lighting shall be installed, maintained and operated in accordance with the approved details. There shall be no other sources of external illumination.
- 14) Prior to the commencement of above ground construction, a schedule and samples of the materials to be used in the external finishes of the new dwellings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 15) Development shall not be commenced until a scheme for the provision and implementation of surface water drainage has been submitted and approved, in writing, with the Local Planning Authority. The scheme shall be constructed and completed before the occupancy of any part of the proposed development.