



Appeal Decision

Site visit made on 14 June 2021

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2021

Appeal Ref: APP/Z1510/W/20/3252524

16 Old Road, Coggeshall, Colchester CO6 1RS

- 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 Mrs Jackie Thompson against the decision of Braintree District Council.
 - The application Ref 20/00148/OUT, dated 22 January 2020, was refused by notice dated 31 March 2020.
 - The development proposed is demolition of existing buildings and erection of 1 N^o dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and erection of 1 N^o dwelling at 16 Old Road, Coggeshall, Colchester CO6 1RS in accordance with the terms of the application, Ref 20/00148/OUT, dated 22 January 2020, subject to the conditions set out in the attached schedule.

Procedural matters

2. The application is for outline permission with all matters reserved. A site layout plan has been submitted which is intended to be indicative of a possible layout.
3. The Council has adopted its Shared Strategic Section 1 Local Plan on 22 February 2021. This supersedes a number of Core Strategy¹ (CS) policies including Policy CS9 which is referred to in the Council's decision and which concerns the built and historic environment. Its Section 2 Local Plan² (the emerging Local Plan or eLP) is to be examined in July 2021.
4. The Coggeshall Neighbourhood Plan (NP) is at an advanced stage but I have no information before me to indicate that it has been formally made.

Main Issues

5. The Council's second reason for refusal states that insufficient evidence had been provided to adequately determine whether or not the site is contaminated. The Council advises that a phase 1 contamination survey had been submitted and the Environmental Health Officer had no objection, subject to the imposition of a condition. The Council has not submitted any further

¹ Braintree District Council Core Strategy, adopted 2011

² Braintree District Section 2 Publication Draft Local Plan (2017)

evidence on this matter and suggests that the second reason has been overcome.

6. Accordingly, the main issues in the appeal are:
 - i) the effect of the proposal on the character and appearance of the area; and
 - ii) its accessibility to services and facilities by sustainable means.

Reasons

Character and Appearance

7. The appeal site is on the edge of Surrex, which is a hamlet about 700 metres to the east of the built-up area of Coggeshall. It includes two buildings which adjoin the road frontage, an access to the side of those buildings and a grassed area to the rear which is continuous with the garden of 16 Old Road.
8. Along Old Road there are dwellings which are informally sited, some of which have garages and other outbuildings that are sited forward of the houses. Opposite the site there is a modern housing development around a cul-de-sac (Prentice Place). To the south of the site there is open countryside but there are dwellings that are in quite close proximity. The site is outside the settlement boundary for Surrex as defined in the development plan, but the buildings on the site are proposed to be included within that boundary in the eLP.
9. These consist of a round-topped building and a weatherboarded building with a gabled roof and lean-to side part, both of which have rusted corrugated sheeting over the door openings facing the road. They have a basic, utilitarian appearance and are not of architectural merit. Their appearance is consistent with agricultural use, but the character of the adjoining part of Old Road is residential. In this context the buildings do not contribute positively to the character and appearance of the area, but rather detract from it.
10. The site widens towards the road frontage and this may influence the siting of the dwelling such that it would be forward of the other dwellings along the road. The indicative plan shows a dwelling in such a location. This would not be harmful to the character and appearance of the area because there are outbuildings along the road that extend close to the road frontage, as the existing buildings on the site do.
11. Those buildings enclose the frontage of the site so that it is not open. Although the site lies at the end of the continuous development on the eastern side of the road, there are dwellings to the south and the development on the opposite side of the road extends further south than the site. For these reasons the site is not clearly open or rural in character but rather within a transitional area between the hamlet and the open countryside. I find that the proposal would not be unacceptably visually intrusive or out of character for these reasons.
12. The indicative plan shows that the dwelling could be accommodated within the settlement boundary as proposed to be amended in the eLP. The garden would be outside the boundary, but this would be limited in extent and not harmful. Some weight can be given to the eLP because it is at an advanced stage, but this is limited given that its policies have yet to undergo examination.

13. Because the proposal would be outside the existing settlement boundary it does not accord with Policy RLP 2 of the Local Plan³ (LP) which confines new development to within those boundaries, or with Policy CS5 of the CS which strictly controls the development that can take place in the countryside.
14. I have been provided with the Regulation 16 Consultation version (Summer 2020) of the NP. Policy 1 of the NP sets out requirements for residential development in order to meet housing need. One of the policy criteria requires that proposals for residential development must be located within settlement boundaries. The proposal does not accord with this policy requirement.
15. The blanket restriction on housing outside settlement boundaries imposed by those policies is inconsistent with the National Planning Policy Framework (the Framework) which allows for rural housing in a wider range of circumstances. This limits the weight that I give to the conflict with those policies.
16. Policies RLP 3 and RLP 9 of the LP require protection of character and that proposals relate well to their surroundings. Policies 15 and 16 of the NP require a positive contribution to character and appearance. For the reasons given above, the proposal would not materially harm the character and appearance of the area. Furthermore, because the proposal would replace existing buildings which detract from the character and appearance of the area it would have potential to provide enhancement. For these reasons the proposal accords with the requirements of Policies RLP 3 and RLP 9 of the LP and Policies 15 and 16 of the NP.

Accessibility

17. The site is about 1.8km from the centre of Coggeshall. This settlement has a wide range of services and facilities, including a market, shops, public houses, restaurants, schools, medical and leisure facilities. On my visit I saw the footpath from the end of Prentice Place which connects to a footpath along the A120 and then the B1024 to Coggeshall. There is no street lighting along this route, which may limit its use as may the distance of the site from the facilities in Coggeshall. However, this route provides for the option of walking to access services and facilities.
18. There are bus stops on both sides of the A120 a short distance from the site. The appellant states that the bus service is half-hourly between 7.00 am and 7.00 pm but the Council states that this is hourly. It provides access to a wider range of services in Chelmsford and Colchester and to rail services at Marks Tey. Notwithstanding the differing statements on frequency, it is evident that there is a good public transport service available. For these reasons there are good, realistic options for use of sustainable modes of transport as alternatives to the use of the car.
19. Policy RLP 90 (vii) of the LP requires promotion of use of the most sustainable modes of transport. Policy CS7 of the CS requires development to take place in accessible locations. Policy 17 of the NP requires encouragement of the use of sustainable means of transport. For the reasons given the proposal would accord with these requirements. I find that the proposal would have good accessibility to services and facilities by sustainable means.

³ Braintree District Local Plan Review (2005)

Other Matters

20. The site is within a zone of influence (ZOI) for the Blackwater Estuary Special Protection Area (SPA) and Ramsar site, as defined in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). Residential development within the ZOI is likely to have a significant effect on the European site. The RAMS requires payment of financial contributions which are used to fund mitigation measures that ensure that new residential development does not adversely affect the integrity of the European site.
21. The Council has advised that the requisite financial contribution has been paid. On this basis the proposal would not adversely affect the integrity of the Blackwater Estuary SPA and Ramsar site.
22. I note the other matters raised in representations, including traffic, parking of construction vehicles, flooding concerns and lack of privacy. These matters did not form part of the reasons for refusal by the Council and they do not alter my conclusions on the main issues.

Planning Balance

23. At the time of the Council's decision, it could not demonstrate a five-year supply of deliverable housing sites. The Council has since confirmed that it can now demonstrate a five-year supply. Notwithstanding this position, I have found that Policies RLP 2 of the LP and CS5 of the CS are inconsistent with the Framework and out-of-date on this basis. These are policies which are most important for determining the application. Paragraph 11(d) of the Framework indicates that 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 as a whole.
24. The provision of the proposed dwelling would be of social benefit but in the context of an adequate housing land supply the benefit provided by a single dwelling would be limited. Accordingly, I give limited weight to this.
25. The proposal would also be of economic benefit in that its occupiers would be likely to support the local economy through their expenditure locally and employment would be provided during construction. This carries limited weight.
26. On the other hand, I find no material harm that would significantly and demonstrably outweigh those benefits.
27. I have been referred to a previous appeal⁴ for change of use of agricultural land to residential curtilage at the site, which was dismissed. In that decision it was not necessary to apply paragraph 11(d) of the Framework, and there were no material considerations that outweighed development plan policy.

Conditions

28. I have imposed the conditions suggested by the Council with some minor alterations to wording to ensure that they meet the tests as set out in the Framework.

⁴ APP/Z1510/W/19/3222997

29. It is necessary to specify landscaping requirements in order to ensure that the development blends with its setting. Details of external materials are required to be approved to ensure the appearance of the development is acceptable.
30. Measures to control dust and mud are necessary to protect the living conditions of nearby occupiers and in the interest of highway safety. It is also necessary to control the hours of construction work and any piling work to safeguard living conditions.
31. Because the site is occupied by agricultural buildings it is necessary to carry out an investigation as to whether the land is contaminated and to carry out any necessary remediation, to ensure that the development is safe for residential occupation.
32. The measures that are recommended in the submitted ecological report are necessary to provide for mitigation and enhancement of biodiversity.

Conclusion

33. For the reasons given I conclude that the appeal should be allowed.

Nick Palmer

INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The landscaping scheme required by condition 1 shall include provision for retention of existing trees/hedging and shall include detailed specifications of hard and soft landscaping works. These shall include plant/tree types and sizes, plant numbers and distances, soil specification, seeding and turfing treatment, colour and type of material for all hard surface areas and method of laying, refuse storage and lighting.

All areas of hardstanding shall be constructed using porous materials laid on a permeable base.

All planting, seeding or turfing in the approved landscaping scheme shall be carried out in the first planting and seeding seasons after the commencement of the development.

All hard surface areas in the approved landscaping scheme shall be carried out before the first occupation of the buildings or upon the completion of the development whichever is the earlier.

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.

- 5) No above ground development shall take place unless and until a schedule and samples of the materials to be used on the external finishes have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained.
- 6) No development shall commence unless and until a dust and mud control management scheme has been submitted to and approved in writing by the local planning authority. The approved scheme shall be adhered to throughout the construction process.
- 7) 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:

Mondays to Fridays 08:00 hours to 18:00 hours
Saturdays 08:00 hours to 13:00 hours
No work shall take place on bank and public holidays or on Sundays.
- 8) No piling shall be undertaken on the site in connection with the construction of the development until a scheme of piling and resultant noise and vibration levels have been submitted to and approved in writing by the local

planning authority. The approved scheme shall be adhered to throughout the construction process.

- 9) No development shall commence until an intrusive investigation and contaminated land risk assessment has been submitted to the local planning authority to determine whether remediation is necessary. If considered necessary, a remediation scheme shall be submitted to the local planning authority for approval. The assessment shall be in accordance with 'Model Procedures for the Management of Land Contamination, CLR 11' (or any further supporting documents).

Notwithstanding the above, should contamination be found that was not previously identified or not considered in any remediation scheme agreed in writing with the local planning authority that contamination shall be made safe and reported immediately to the local planning authority. The site shall be re-assessed in accordance with the above and a separate remediation scheme shall be submitted to and approved in writing by the local planning authority.

Any approved remediation measures shall be implemented and completed prior to the first occupation of any part of the development. Following completion of the remediation works a validation report undertaken by a competent person or persons and in accordance with the 'Essex Contaminated Land Consortium's Land Affected by Contamination: Technical Guidance for Applicants and Developers' shall be submitted to the local planning authority for approval. There shall be no residential occupation of the site until the local planning authority has approved the validation report in writing.

- 10) The development shall be carried out in accordance with the recommendations contained in the Preliminary Bat Roost Assessment, Great Crested Newt and Nesting Bird Survey report by Eco-Check Consultancy Ltd dated March 2020.