



Appeal Decision

Hearing held on 7 November 2023

Site visit made on 20 November 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2024

Appeal Ref: APP/Z1510/W/23/3326557

Land to the south of The Causeway, Ridgewell, Essex (573433, 241073)

- 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 outline planning permission.
 - The appeal is made by Q Developments Ltd against Braintree District Council.
 - The application Ref 22/03221/OUT, is dated 23 November 2022.
 - The development proposed is Outline planning permission with all matters reserved apart from access for development of up to 24 dwellings including details of access into and within the site, parking arrangements, garages, open space, landscaping, drainage measures and all other associated works.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal is made against the failure of the Council to determine the planning application within the prescribed period. However, the Council has provided a Statement of Case setting out that it would have refused the planning application and the purported reasons for this position.
3. The Appellant's Supplemental Statement of Case sets out that the following documents have been submitted with the appeal or during the appeal process:
 - A biodiversity net gain (BNG) assessment report and the calculations of BNG Metric 4.0.
 - A Transport Technical Note.
 - An alternative access proposal for the appeal site as shown on drawing 111248-10-SK02 Rev C.
 - A drawing showing an additional footpath link to the appeal site as shown on drawing 111248-10-SK03 Rev A.
4. In considering whether to accept this additional information I have had regard to the judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin) and I have applied the substantive and procedural tests.
5. The additional evidence submitted by the appellant on Biodiversity Net Gain does not fundamentally alter the proposed development and neither does the Transport Note. From a procedural perspective, the former responds to a new issue raised by the Council, which was not referred to in the purported reasons

for refusal. The latter is simply a response to the Council's case in relation to highway safety. For these reasons, both documents are accepted.

6. Plan reference 111248-10-SK02 Rev C includes an increase in the proposed access carriageway width from 4.8m to 5.5m within the application site boundary. There do not appear to be any other alterations to development proposed within the application site. The plan also shows a new footway and alterations to the public highway, which would be subject to a separate regulatory framework (Section 278 of the Highways Act 1980).
7. Applying the substantive test, the widening of the carriageway to 5.5m is a very minor alteration in physical terms, which does not alter the overall location of the access as previously proposed. On this basis it would not represent a fundamental or substantial change to the proposal. With regard to the footway and carriageway alterations, these are subject to a separate regulatory regime and as such, they are only illustrated to attempt to demonstrate how a safe access arrangement could be achieved. On that basis, these changes do not fundamentally alter the development as previously proposed.
8. From a procedural perspective, the plan was submitted with the appeal and all interested parties¹ and statutory consultees should have been notified of the appeal by the Council. Furthermore, the appellant has clearly been in consultation with the Highway Authority throughout the appeal process with regard to the revised proposals, as indicated by correspondence forwarded to me.
9. For these reasons I accept this additional plan. The appellant has submitted this plan on an 'alternative' basis such that if I find against the previous version (reference 662945-10-01) the alternative plan can be considered and approved if acceptable. I am satisfied with this approach.
10. Plan reference 111248-10-SK03 Rev A was submitted for indicative purposes only and is therefore accepted.
11. Outline planning permission is sought with all matters reserved except access. The appellant is seeking permission for the following plans:
 - Drawing No. 20-J3402-L;
 - Site Access Arrangement and Visibility Splays (662945-10-01 – Rev J); and/or
 - Proposed Alternative Site Access Arrangement (111248-10-SK02 – Rev C).
12. All other plans are submitted for indicative purposes only. Permission is sought for the vehicular access and pedestrian access but excludes the internal circulation routes.
13. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. The main parties were both invited to make representations on it and I have taken these into account in considering this appeal.

¹ Those who made representations on the original planning application.

Main Issues

14. The Council's Statement of Case sets out three purported reasons for refusal. The first relates to two separate issues, the effect of the proposal on the character of the area and the suitability of the site for housing. The second relates to highway safety.
15. The third purported reason for refusal relates to planning obligations. However, the appellant has submitted a signed section 106 (s106) agreement with the appeal, as well as a unilateral undertaking. Therefore, the Council now only contends that the Public Right of Way (PRoW) improvements covered by the Unilateral Undertaking (UU) do not meet the tests set out under the Community Infrastructure (CIL) Regulations 2010 (as amended). This issue is discussed under 'Planning Obligations'.
16. On this basis, the main issues are:
 - Whether the appeal site is a suitable location for the proposed development with particular regard to access to services and facilities.
 - The effect of the proposed development on the character and appearance of the area.
 - The effect of the proposed development on highway safety.

Reasons

Location

17. The appeal site comprises a vacant field located to the west of the settlement of Ridgewell. Section 1 Local Plan² Policy SP3 states in part that new development will be accommodated within or adjoining settlements according to their scale, sustainability and existing role, both within each individual district and, where relevant, across the wider strategic area.
18. The appeal site is not located within the development plan defined development boundary of Ridgewell. It is therefore necessary to determine whether the appeal site 'adjoins' the development boundary. In the absence of any clarification of the term within the Local Plan text it is reasonable to apply the ordinary meaning of the word. The dictionary definition of 'adjoining' is 'next to or joined to something'.
19. Given that the site is physically separated from the boundary by a neighbouring allotment and dwellings (neither of which are themselves within the development boundary) I consider that it is neither next to nor joined to the development boundary. It does not therefore 'adjoin' the settlement for the purposes of applying Policy SP3. On that basis, the proposed development would conflict with this policy.
20. Section 2 Local Plan³ Policy LPP1 provides more detail on the Council's strategy for the location of new development in relation to development boundaries. It states in part that development outside development boundaries will be confined to uses appropriate to the countryside. The appellant accepts that the proposed residential development is not a use appropriate to the countryside

² Braintree District Council Local Plan 2013-2033 - Section 1 (February 2021)

³ Braintree District Council Local Plan 2013-2033 - Section 2 (July 2022)

within the terms of this policy. For this reason, the proposed development would also conflict with Policy LPP1.

21. Section 2 Local Plan Policy LPP1 diverges somewhat from Section 1 Local Plan Policy SP3 because it does not include reference to sites 'adjoining' development boundaries. However, in the case of this appeal, this discrepancy has no bearing on my conclusions as I have concluded that the appeal site does not 'adjoin' the development boundary in any case. Even if that were not the case, Policy SP3 also requires that growth will be planned to ensure existing settlements maintain their distinctive character. The proposal conflicts with this part of the policy for reasons discussed later in relation to 'character and appearance'.
22. The Section 2 Local Plan explains at paragraph 3.1 that the purpose of the spatial strategy is to direct development towards the most sustainable locations. This part of the Local Plan sets out a settlement hierarchy, listing settlements under different tiers according to access to services, facilities, employment, and sustainable transport. Ridgewell is listed as a third tier settlement, which is the lowest tier within the hierarchy.
23. Indeed, Ridgewell has a very limited range of services and facilities. These include a primary school, village hall, public house, church and mobile takeaway. As such, even assuming that the village would be easily accessible on foot⁴ (which represents a best-case scenario for the appellant) or by bicycle, the future occupiers of the proposed development would inevitably have to travel further afield to access services and facilities to meet their basic day-to-day needs, including employment and food shopping needs, for example.
24. In terms of other modes of sustainable transport, the nearest bus stop is approximately 400 metres from the appeal site. Despite this, the evidence provided by the appellant indicates that the bus services are infrequent with one outbound and one inbound service each weekday with supplemental services provided by Demand Response Transport. The limited frequency of these services means that future occupiers are far more likely to rely on the private motor vehicle to access services and facilities in larger settlements, including but not limited to Sible Hedingham and Haverhill.
25. Whilst these nearby settlements might be easily accessible by bicycle to some, this means of transport would not be feasible for the elderly, those with mobility impairments or children. The provision of travel information packs would do little to facilitate sustainable travel given the limited options available.
26. Whilst there may have been other permissions granted for housing within Ridgewell and a former draft housing allocation in the previous draft Local Plan, these considerations do not alter the fact that the settlement has a very limited range of services and facilities and poor access to sustainable modes of transport.
27. In summary, the appeal site would not be a suitable location for the proposed development. This is because Ridgewell has a very limited range of services and facilities. Given the poor access to reliable and regular alternative sustainable modes of transport, future occupiers would inevitably rely on the

⁴ Facilitated by either the existing Public Right of Way, an upgraded PRoW or existing/new footway links.

- private motor vehicle to access the wider range of services and facilities in larger settlements further afield.
28. In addition to the conflict with Local Plan Policies SP3 and LPP1, the proposal therefore also conflicts with Section 1 Local Plan Policy SP7 and Section 2 Local Plan Policies LPP42, LPP52, which together seek to ensure that new development creates well-connected places and makes appropriate provision for sustainable modes of transport.
29. The development plan policies which seek to guide the location of development in the district (SP3 and LPP1) are out-of-date because they are far more restrictive than the policies in the Framework relating to the location of residential development. These policies have a constraining impact on the supply of housing which further reduces the weight to be afforded to them in the context of a HLS shortfall. As such, I afford the conflict with these policies minimal weight. In contrast, the emphasis in Policies SP7, LPP42 and LPP52 is largely consistent with the Framework's emphasis on limiting the need to travel.
30. Section 1 Local Plan Policy SP1 is not directly relevant to this main issue, as it relates to the overarching presumption in favour of sustainable development.
31. Furthermore, for the same reasons the proposal would conflict with Framework Paragraph 109, which states in part that 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. The proposal is significant development within this context, given the high (albeit approximate) number of dwellings proposed within a relatively small settlement.
32. Framework Paragraph 109 also outlines that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. As such, there will be circumstances where a lower level of access to sustainable transport might be acceptable. This is a matter of planning judgement.
33. Whilst I accept that rural settlements typically have lower levels of access to sustainable transport, as well as services and facilities, this settlement is the least sustainable settlement type in the development plan settlement hierarchy. My own assessment of the site's poor locational sustainability backs this up. Indeed, even for a rural settlement there would be an unacceptable reliance on the motor vehicle with little other effective sustainable means of access services and facilities.

Character and Appearance

34. The appeal site comprises a grass field which is not currently in agricultural use. Nonetheless, its character is relatively synonymous with the surrounding open character of the agricultural land to the west and north. The character of Ridgwell is partly defined by the linear strands of residential development which feed into the core of the settlement, where there is more development in-depth.
35. The appeal site is located beyond the settlement's outer edge and therefore it has a particularly important role in allowing a gradual transition between the open countryside and the built-up area of the settlement. Indeed, whilst there

are existing dwellings located along The Causeway, these are laid out in a linear manner.

36. Whilst appearance, layout, landscaping and scale are reserved matters, given the approximate number of dwellings proposed, it is inevitable that the proposal would involve a significant amount of development in-depth, contrary to the linear character which prevails on the outer edges of the settlement. As a result, the proposal would have a harmful incongruous effect on the settlement character, regardless of the prospect of variations in layout, appearance or scale.
37. Given the relatively open character of the appeal site and surrounding landscape to the west and north, the visual harm would be significant. Indeed, this harm would be clearly apparent from approach towards the settlement along the Causeway, from nearby neighbouring dwellings to the north-east and from the Public Right of Way (PRoW) which skirts the southern extent of the site boundary.
38. The appellant's Landscape and Visual Impact Assessment (LVIA) concludes that the proposal will result in perceptions of increased urbanisation on the fringes of the village, with significant adverse characterising effects prior to mitigation. The LVIA asserts that these effects would reduce to 'moderate/minor' once proposed planting has matured.
39. However, whilst I note that there is scope for extensive planting and landscaping, I do not consider that this would fully mitigate the harmful impact that a development of this scale would inevitably have. This is primarily because of the open nature of the appeal site, the relatively flat landscape and the close proximity of the adjacent Public Right of Way.
40. The Council has outlined concerns with regard to the loss of part of the hedgerow which fronts the appeal site. However, in terms of character and appearance, this hedgerow is not of any particularly special merit. As such, the loss of small sections would not result in any significant harm.
41. In summary, the proposed development would result in a significant harmful impact on the character and appearance of the area. It would therefore conflict with Section 1 Local Plan Policies SP3, SP7 and Section 2 Local Plan Policies LPP1 and LPP52. Together these policies require that new development responds positively to local character including through maintaining distinctive settlement character.
42. Whilst I have found policies SP3 and LPP1 to be inconsistent with the Framework (in relation to the first main issue), Policies LPP52 and LP7 are consistent with the Framework insofar as they seek to ensure that new development responds to local character. Indeed, the proposal would also conflict with Framework Paragraph 116(c) which states in part that development should respond to local character. For this reason, I afford the conflict with Policies LPP52 and LP7 significant weight, even in the context of a HLS shortfall.

Highway Safety

43. Essex County Council (the Highway Authority) and the appellant both provided evidence pertaining to vehicle speeds along the causeway. Nonetheless, there

is common ground⁵ between these parties that the required visibility splays are 2.4m x 172m to the left (west) of the proposed highway access junction with the A1017 and 2.4m x 137m to the right (east).

44. With regard to the originally proposed access arrangement (Plan reference: 662945-10-01 – Rev J) the Council and the HA are concerned that the visibility splays to the right of the proposed access would cross land not within the ownership of the appellant or the HA. Thus, these parties allege that there would not be sufficient control over the implementation and retention of this visibility splay.
45. However, the third party land to the east of proposed access is subject to planning permission reference 12/01267/FUL, which includes a condition requiring implementation and retention of visibility splays to the east and west of the neighbouring vehicular access. These splays and their control by planning condition, would be sufficient to ensure that the appeal proposal could achieve unimpeded visibility to the east of the proposed access. This neighbouring development appears to have been implemented and at least some of the dwellings are occupied.
46. Therefore, taking a reasonable approach, and taking into account these unique circumstances, I am satisfied that this matter could be effectively controlled through the imposition of an appropriately worded Grampian condition, such that the required visibility splays could be implemented and retained as such thereafter.
47. In terms of the pedestrian link shown on Plan reference 662945-10-01 – Rev J, this would ultimately connect the development to an existing footway along the A1017. There is no substantive evidence to indicate that the proposed footway would be deficient in any way in terms of its specifications, dimensions or proximity to the highway. The Council and the HA have highlighted that this footway crosses third party land. This is a matter which has a bearing on the implementation of the proposal which I return to later under 'other matters'. However, from a highway safety perspective the footway as proposed would not result in an adverse impact.
48. In summary, the original access proposals would not result in an adverse impact on highway safety. Given these conclusions it is not necessary to consider the alternative access arrangement put forward by the appellant as part of the appeal.
49. The proposed development would therefore accord with Section 1 Local Plan Policy SP6 as well as Section 2 Local Plan Policies LPP47 and LPP52, insofar as they relate to highway safety.
50. For the same reasons the proposal would also accord with Framework Paragraph 115 which states in part that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. In addition, the proposed development would not conflict with Policies DM1 and DM9 of the Essex County Council Development Management Policies (2011).

⁵ Paragraphs 3.1.3 and 3.1.4 of SoCG on Highways and Access Matters

Other Matters

51. Both main parties have referred to various appeal decisions. However, the precise case-specific circumstances of these decisions vary. As such, they have no significant bearing on my conclusions. Ridgewell Parish Council referred to an appeal decision concerning development at Land Adjacent to Orchard Close⁶. Given that I have not been provided with the application documents pertaining to this decision it is not possible to determine the context within which the decision was made. As such, this too is a decision which does not alter my findings or approach.
52. The Council has outlined concerns that part of the proposed footway link would be within third party land. However, given that I am dismissing this appeal for other reasons it is not necessary to consider this matter further.

Planning Obligations

53. The submitted UU includes provision for improvements to PRow Routes 11 and 28. The s106 makes provision for contributions in respect of: affordable housing; on-site open space and amenity areas; healthcare; off-site open space; education; libraries; and refuse collection. The Council has provided a statement confirming compliance of the s106 obligations with Regulation 222 of the CIL Regulations 2010 (as amended).
54. However, given that I am dismissing the appeal, it is not necessary to consider whether the planning obligations meet the tests set out under Regulation 122(2). Notwithstanding this, for the purposes of considering the benefits associated with the proposed development, I have assumed that the contributions and obligations in the s106 and UU would be made. This represents a best-case scenario for the appellant in terms of applying the planning balance.

Planning Balance

55. The appellant asserts that the Council can only demonstrate a 4.31 year supply of deliverable sites for housing (HLS). The Council asserts that it can demonstrate a HLS of 4.86 years. Either way, Framework footnote 8 dictates that, due to the absence of a five-year HLS, Framework Paragraph 11d is engaged. Paragraph 11di) does not apply, given that there are no Framework policies protecting areas or assets of particular importance which provide a clear reason for refusing the development.
56. As such, Paragraph 11dii) is engaged and 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 taken as a whole.

Benefits

57. The proposed development would result in economic and social benefits associated with the provision of housing, given that 24 dwellings are proposed. However, even if I were to accept the appellant's position on housing land supply, the Council's HLS would only improve by 0.2 years to 4.33 as a result of the proposed development. Given the limited social and economic advantage

⁶ APP/Z1510/W/17/3191139

which would be accrued in this regard, I only afford this benefit moderate weight.

58. The proposal would include provision of 40% affordable housing on site. This is a significant proportion, particularly within the context of a HLS shortfall and the evidence on need provided within the appellant's Affordable Housing Need Assessment (July 2023)⁷. Furthermore, the appellant asserts that the Council has a historic shortfall of up to 955 affordable homes over the period between 2013 and 2022. If I were to accept this position⁸ then it is clear that the benefits associated with the provision of affordable housing would be significant. Indeed, this is consistent with the emphasis within the Framework on increasing the supply of affordable housing.
59. There would also be some economic benefits associated with the proposal, including an increase in the local population to support existing services and facilities. Nonetheless, given that there are a very limited range of services and facilities these benefits would be minimal. There would be support for local construction jobs but this benefit would be temporary. Insofar as CIL and taxation receipts are concerned, these would be of neutral or minimal beneficial impact, given that they are broadly designed to respond to the demands created by the development. Overall, these economic benefits can be afforded moderate weight.
60. There would be open space provided on site as part of the proposal and there is a Unilateral Undertaking to control the upgrading of two PRoWs. These are both aspects of the scheme which may benefit neighbouring residents and therefore they can be afforded moderate weight as social benefits of the proposal.
61. During the hearing there was some discussion with regard to the extent of any Biodiversity Net Gain which would be achieved. For the purpose of applying the planning balance⁹ I will accept the appellant's position that there would be a net gain for habitats of 19.16% and net gain for Hedgerows of 116.33%. This environmental benefit can be afforded moderate weight.
62. Overall, there would be social, economic and environmental benefits associated with the proposal. Together, they can be afforded significant weight.

Adverse Impacts

63. I have already outlined the adverse impacts of the proposed development in relation to the poor access of the site to services and facilities and the impact on the character of the area. In relation to the former I have identified a conflict with Framework Paragraph 109. In relation to the latter there would be a conflict with Framework Paragraph 116(c).
64. I attribute substantial weight to the harm resulting from the site's poor access to services and facilities. This is because, whilst rural areas typically have less access and lower levels of sustainable transport provision, Ridgewell in particular is a location which is devoid of all but a handful of services and facilities. This is compounded by the very poor level of access to sustainable modes of transport.

⁷ In particular, conclusions relating to demand and supply in the Stour Valley North Ward at Paragraphs 5.21-5.22.

⁸ Which I do, for the hypothetical purposes of applying the planning balance in this appeal.

⁹ Applying a best-case scenario for the appellant.

65. I also attribute substantial weight to the harm which would result from the effect of the proposal on the character of the area. This is because the appeal site has an important role in aiding the soft transition between the countryside and the settlement and the settlement edges are typically characterised by linear development, with more development in-depth within the village. The proposal would completely and permanently alter this prevailing character with the harm visible from various public vantage points, given the relatively flat landscape.

Framework Paragraph 11d)ii Balance

66. For these reasons the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

67. Although there would be no adverse impact on highway safety, the proposed development would conflict with the development plan taken as a whole, given the poor access of the site to services and facilities and the harm that would be caused to the character of the area. There are no material considerations raised, which would outweigh this conflict, even taking into account the application of Framework paragraph 11(d)ii. The appeal is therefore dismissed and planning permission is refused.

Luke Simpson BSc MSc MRTPI

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Andrew Byass	Counsel (Landmark Chambers)
Ben Pope	Planning (Boyer)
Ian Wickett	Highways (RSK)
Mark Randall	Appellant (Q Developments)
Jim Thomas	Appellant (Q Developments)

FOR THE LOCAL PLANNING AUTHORITY

Josef Canon	Counsel (Cornerstone Barristers)
Carol Wallis	Senior Planner (Braintree District Council)
Kathy Carpenter	Senior Planner (Braintree District Council)
Martin Mason	Strategic Development Engineer (Essex Highways)
Teresa Milbourn	Strategic Development Engineer (Essex Highways)
Neil Harvey	Natural Environment Manager (Essex County Council)

INRERESTED PARTIES:

Robert Stewart	Chair, Ridgewell Parish Council
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