Planning Inspectorate

Appeal Decision

Site visit made on 6 February 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2025

Appeal Ref: APP/Z1510/W/24/3346047
10 Feering Road, Coggeshall, Colchester, Essex CO6 1RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Mr Paul Copsey against the decision of Braintree District Council.
- The application Ref is 23/01736/OUT.
- The development proposed is described as an outline application with all matters reserved except access for the erection of a single dwelling and garage.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application sought outline planning permission with all matters reserved other than access. I have determined the appeal as such, and any details in relation to the reserved matters have been considered on an illustrative basis.

Background and Main Issue

3. Following the determination of the application, the appellant has engaged in further discussions with the Local Highways Authority. These discussions resulted in the submission of a revised plan[1] with this appeal, which now indicates that the required visibility splays can be achieved.

4. The Procedural Guide for Planning Appeals makes clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered is essentially what was considered by the Council, and on which interested people's views were sought. However, the changes would be minor in nature and are in response to the Council's second reason for refusal. Accordingly, under the principles established by the Courts in Holborn Studios Ltd[2] the amendment does not involve a substantive difference or a fundamental change. Furthermore, having regard to the procedural tests, I do not consider that any other party would be prejudiced by my acceptance of it. I have therefore determined the appeal based on the revised plan.

5. In their Statement of Case, the Council has confirmed that based on the additional information provided with the appeal that it will no longer be defending the second reason for refusal in relation to highway safety and whether appropriate visibility splays can be provided. I have considered the appeal on this basis.

[1] Drawing Ref: IT2549/SK/01
[2] Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

6. Therefore, the main issues are:

- the effect of the proposed development on the character and appearance of the area
- whether the appeal site is an appropriate location for the proposed development having regard to relevant development policies and accessibility to local services

Reasons

Character and Appearance

7. The appeal site comprises part of the garden of No.10 Feering Road (No.10), which is a detached two storey dwelling. It is the last house in a short row of properties situated on this side of Feering Road. No.10 and the neighbouring properties are substantial detached properties which sit within spacious, verdant plots. This part of Feering Road has a distinctly rural feel, with open fields surrounding the appeal site. There is no development on the opposite side of Feering Road, or beyond the appeal site. The appeal site is enclosed by hedgerows and mature landscaping, which contributes positively to the verdant character of the area.

8. The proposed development would involve the construction of a detached dwelling, situated to the side of No.10, utilising much of the garden area at the side of the property. It would by virtue of its position in relation to No.10 extend the ribbon of development further into the open countryside to the detriment of the character and appearance of the area, particularly the rural character.

9. Whilst I accept that the development would not be isolated, and that the appeal site benefits from mature landscaped boundaries which limit some views of the appeal site, the development of the appeal site would nonetheless lead to the sub-urbanisation of this part of Feering Road. This would be at odds with the more rural character and appearance of the area and would not reflect the surrounding pattern of development. It would also substantially reduce the amount of space around No.10 causing harm to the spacious character of this property and the surrounding area.

10. Although matters relating to layout, scale, appearance and landscaping are reserved for future consideration, I am not persuaded that matters would overcome the harm which I have identified.

11. For the reasons given, the proposed development would cause unacceptable harm to the rural character and appearance of the area. Thus, it would this be contrary to Policies LPP1 and LPP52 of the Braintree District Local Plan 2013-2033 (Section 2) (the LP2), which requires amongst other things, development to protect the intrinsic character and beauty of the countryside and be of a high standard of design, which enhances the area's local distinctiveness and be in harmony with the character and appearance of the area.

12. It would also be contrary to Policy 1 of the Coggeshall Neighbourhood Plan, adopted July 2021 (the CNP) which requires development to conserve or enhance the distinctive character and appearance of Coggeshall Parish and the distinct identity of Coggeshall village.

Whether a Suitable Location

13. The Braintree Local Plan (Section One), adopted February 2021 is a strategic document covering Braintree District Council, Tendering District Council and Colchester Borough Council, collectively known as the North Essex Authorities. Policy SP3 of the LP1 states that existing settlements will be the principal focus for additional growth across North Essex within the Local Plan period and that 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. The supporting text[3] to Policy SP3 states that for Braintree the growth will be mainly addressed via urban extensions.

14. Policy LPP1 of the LP2 states that development outside development boundaries will be confined to uses appropriate to the countryside whilst also protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils to protect the intrinsic character and beauty of the countryside.

15. Policy 1 of the CNP also states that proposals for residential development should be located within the Development Boundary, on an allocated site, or on a rural site released for affordable housing as an exception to normal policies.

16. It is not disputed that the appeal site lies outside of a settlement and therefore within the open countryside. The nearest settlement, Coggeshall is defined in the LP1 as a Key Service Village (KSV) and has land allocated within the settlement boundary for housing, including a site which is close to the appeal site. All of the houses located along Feering Road are located outside of the settlement boundary, including those closest to the junction with the B1024, which runs through the village.

17. In this particular case, according to the evidence provided by the appellant, the appeal site is located approximately 55 metres from the defined boundary. The appellant states that the appeal site should be considered to be adjoining the settlement boundary and has drawn my attention to the Corbett judgment[4], in which the Court of Appeal held that whether a site is adjoining a settlement will be a matter of planning judgement on the particular facts of the case. The Court found that the words “immediately adjoining” do not require an elaborate explanation, nor do they require an unduly prescriptive meaning, or necessarily mean “contiguous” or “conterminous”. It is for a decision maker to make a judgement having regard to the facts, as to whether the site and the proposed development can be regarded as sufficiently close to the settlement in question to be “immediately adjoining” it.

18. The appellant argues that some of the housing allocated would be located further away from services and facilities than the appeal site. This would not be an isolated home. However, due to the intervening landscape and open fields, the proposed development of the appeal site would not be viewed as part of the village. Therefore, in my judgement the proposed development would not lie immediately adjacent to, or next to or very near to, the settlement.

19. I acknowledge that Coggeshall contains a range of services and facilities, all of which are located within a short distance from the appeal site. However, whilst the

[3] Paragraph 3.3
[4] *Corbett v Cornwall Council [2022] EWCA Civ 1069*

appellant states that the road is lightly trafficked, it is nevertheless a 60mph zone and without a footpath or street lighting. Therefore, whilst the walk in terms of its distance might be reasonably short, it would not be particularly safe in the absence of footways and street lighting. As such, the lack of footpath or otherwise safe walking route to Coggeshall would not encourage sustainable travel to access facilities within the village. It would also not be a particularly attractive route for cyclists. I therefore find that the proposed development would not prioritise the needs of pedestrians, cyclists and public transport services above use of the private car.

20. The appellant states that there is conflict between Policy SP3 of the LP1 and Policy LPP1 of the LP2 and Policy 1 of the CNP which expect development to be located within development boundaries. However, Policy SP3 is clearly a strategic policy which is intended to guide the identification of a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity, and local needs. The LP2 allocates sites for housing and defines settlement boundaries for the District. It is also clear from Policy LPP1 that development outside of those boundaries will be confined to uses appropriate to the countryside, which does not include market housing. Therefore, notwithstanding the provisions of I find that the proposal would conflict with Policy LPP1 of the LPA2 and Policy 1 of the CNP, for the reasons set out above.

21. My attention has been drawn to an appeal decision[5] in Colchester which concerned the provision of a single dwelling on land outside of the settlement boundary but within 129 metres of that boundary. In this particular case, the Inspector concluded that the appeal site 'adjoined the settlement'. Other similarities drawn to my attention are the absence of footways. The Inspector found that the physical and visual relationship to the appeal site was sufficiently close to be considered as adjoining. However, I have not been provided with full details of this case and only very limited evidence that there are any direct comparisons to the appeal site. It is also located with a different local authority area. In any event, I have considered the appeal based on the evidence before me and therefore attribute this appeal decision very limited weight.

22. Consequently, I therefore conclude that the appeal site is not an appropriate location for the proposed development having regard to relevant development policies and accessibility to local services. Thus, it would be contrary to Policies SP1 and SP4 of the LP1, Policies LPP1, LPP42 and LPP52 of the LP2 and Policy 1 of the CNP. Together, these policies seek to direct development for development to be accommodated within settlements and to create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above use of the private car.

Other Matters

23. The site lies within the Zone of Influence of one or more European Sites comprising the Essex Coast Recreation disturbance Avoidance and Mitigation Strategy (RAMS). A financial contribution is understood to have been secured by way of a RAMS payment to mitigate the additional recreational pressure on the European Sites arising through the proposed development.

[5] Appeal Ref: APP/A1530/W/22/3295728

24. In the event that I was minded to allow the appeal, it would be necessary to consider this matter within an appropriate assessment.

Planning Balance

25. Although at the time the decision was made the Council were unable to demonstrate a five-year supply of housing sites, the evidence[6] provided with this appeal indicates that the Council can now demonstrate 5.32 years of supply. The appellant disputes this figure and has drawn my attention to two appeal decisions[7] which concluded that the housing land supply figure is between 4.79 and 4.9 years, indicating a minor shortfall in supply.

26. The proposal would make a contribution to housing supply. I also recognise that there would be some economic benefits during the construction phase and environmental benefits secured as part of the proposal. Nonetheless, the appeal proposal relates to a single house and therefore any benefits associated with the proposal will be small in scale and can only be attributed limited weight.

27. Set against these benefits would be the harm I have identified above, which includes the proposed development being located in the open countryside, with limited access to local services by walking cycling or sustainable transport and the harm to the character and appearance of the area. Furthermore, the proposal would be contrary to the Framework insofar as it seeks, amongst other things, recognition of the intrinsic character and beauty of the countryside and developments that function well and add to the overall quality of the area and that are visually attractive and are sympathetic to local character including the surrounding built environment and landscape setting.

28. Consequently, even if I were to conclude there is a shortfall in the five-year housing land supply as suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

29. Because I have found the proposal to be unacceptable for reasons other than the effect on European Sites, an appropriate assessment has not been undertaken.

Conclusion

30. For the reasons given above, the proposed development would conflict with the development plan when considered as a whole and there are no material considerations of sufficient weight which indicate that a decision should be taken otherwise in accordance with it. Therefore, I conclude that the appeal should be dismissed.

K Lancaster

INSPECTOR

[6] Dated 28 January 2025
[7] APP/Z1510/W/23/3331319 and APP/Z1510/W/24/3338229