

Planning Statement

Outline Application with all matters reserved except Access for the Erection of a Single Dwelling and Garage.

Land Adjacent to No 10, Feering Road, Coggeshall.

Mr P Copsey

June 2023

The logo for pomery, featuring the word "pomery" in a white, lowercase, sans-serif font, centered within a solid olive-green rectangular background.

PLANNING CONSULTANTS

Introduction

- 1.0 This statement has been prepared by Pomery Planning Consultants Limited on behalf of our client, Mr Paul Copsey (the applicant). The statement explains and supports the applicant's proposal for outline planning permission for the erection of a single dwelling and garage at land adjacent to 10 Feering Road, Coggeshall.

The Application Site

- 2.0 The application site measures approximately 0.14 hectares and is located on the west side of Feering Road, just to the southeast of Coggeshall. The site contains a number of mature trees, which are mainly confined to the site's boundaries, which provide strong landscaped enclosure.
- 2.1 Residential development is the main land use towards the northern end of Feering Road and the application site falls within that ribbon of development and is on exiting residential curtilage land. North of the site is no.10 Feering Road, to the east, south and west are open agricultural fields and paddocks.
- 2.2 The application site is outside the settlement boundary for Coggeshall, the boundary of which is just to the north west of the site, where some 15 new homes are allocated in the Local and Neighbourhood Plan. Whilst the site is not within the settlement, it does adjoin the settlement for the purposes of planning policy, which is further explained later in this statement.
- 2.3 The site is in Flood Zone One, which has the lowest flooding risk, a 1:1000 year risk. The site is not within a Conservation Area and there are no heritage assets in the immediate area that would be impacted by the proposal.

The Proposal

- 3.0 The proposal is submitted in outline with only the access seeking approval , all other matters are reserved for later approval. The access will be shared with the existing access to No.10 Feering Road with an internal short driveway and turning head. As an outline proposal, no detailed plans have been prepared, however, the applicant submits an indicative site layout to illustrate a form of development that could be accommodated within the site. That indicative layout is reproduced below.



The Planning Policy Framework

4.0 The development plan in Braintree consists of the recently adopted Braintree Local Plan 2013- 2033 (BLP), which is in two parts. Part One is a joint document prepared between Braintree and Tendring District Councils and Colchester Borough Council (the North Essex Authorities). Part One deals with strategic matters and policies across all three authority areas, including their overall housing requirements. Part One of the BLP was adopted by the LPA on the 22nd February 2021. Part Two of the BLP was adopted on the 25th July 2022 and contains Braintree-specific development management policies, along with allocations to meet the District's housing needs, which are defined in Part One.

4.1 Relevant development plan policies include:

Part 1

SP3

SP7

Part 2

LPP 1

LPP43

LPP52

LPP65

4.2 Coggeshall Neighbourhood Plan (NLP) was made in July 2021, policies relevant to this proposal are as follows:

Policy 1

4.3 National Planning Policy is contained within the National Planning Policy Framework (the Framework). The Framework sets out the Government's position on all planning policy matters and how it should be applied in policy making and decision taking.

Relevant to this proposal would be paragraph 11 d), which states:

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁷; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

The Material Planning Considerations

5.0 As the application site is outside of the settlement for Coggeshall, the proposal would ordinarily be considered to be in conflict with the development plan. Key policies of the development plan in relation to this proposal include Policy SP3 and LPP1 of the Local Plan and Policy 1 of the Coggeshall Neighbourhood Plan.

5.1 Policy SP3 advises that:

Policy SP3 - Spatial Strategy for North Essex

*Existing settlements will be the **principal focus for additional growth** across North Essex within the Local Plan period. **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. Future growth will be planned to ensure settlements maintain their distinctive character and role. Re-use of previously-developed land within settlements is an important objective, although this will be assessed within the broader context of sustainable development principles, particularly to ensure that development locations are accessible by a choice of means of travel.*

Each local authority will identify a hierarchy of settlements where new development will be accommodated according to the role of the settlement, sustainability, its physical capacity and local needs.

Beyond the main settlements the authorities will support diversification of the rural economy and conservation and enhancement of the natural environment.

Three new garden communities will be developed and delivered as part of the sustainable strategy for growth at the locations shown on Map 3.3 below and the Proposals Map. These new communities will provide strategic locations for at least 7,500 additional homes within the Plan period in North Essex. . Employment development will also be progressed with the expectation that substantial additional housing and employment development will be delivered in each community beyond the current Local Plan periods. They will be planned and developed drawing on Garden City principles, with necessary infrastructure and facilities provided and a high quality of place-making and urban design.
(bold type and underling, my emphasis)

- 5.2 It is clear from the policy text above that the Spatial Strategy for Braintree will principally direct housing to land within or adjoining settlements, and therefore development in the countryside, out of defined settlement is not specifically prohibited. The policy advises that proposals will be considered according to the scale and sustainability of the settlement. Coggeshall is a First Tier settlement in the LPA's Spatial Strategy, it is one of five Key Service Villages within the District, so its scale and sustainability can accommodate growth and accordingly, the settlement is the subject of housing allocations, one very close to the application site.
- 5.3 The application site is not within the settlement; however, it is considered to adjoin the settlement. What is meant by adjoining, is not defined in the Local Plan. However, in the recent case of *Corbett v Cornwall Council [2022] EWCA Civ 1069*, the Court of Appeal held in respect of a similar policy, involving the need for sites to be 'immediately adjoining' the settlement, 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”. The words were found to have a degree of flexibility within them. The Court also found that a decision maker is 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. The Court also held that while the main focus of the relevant part of the policy is on the physical and visual relationship between the site and the settlement, it does not follow that the functional relationship between them can have no bearing upon the necessary exercise of planning judgement. The references to the scale and role of the settlement in Policy SP3 in this appeal, along with the need for sites to be adjoining the settlement, would appear to support such a conclusion. It is the appellant’s view therefore, that the principle of development is compliant with Policy SP3 in this regard, as the site can be said to adjoin the settlement boundary.

- 5.4 There can be no doubt therefore that sites adjoining the settlement boundaries are not prohibited. SP3 clearly makes provision for sites within or adjoining settlements. On the other hand, Policy LPP1 states:

“Within development boundaries, development will be permitted where it satisfies amenity, design, environmental and highway criteria and where it can take place without material adverse detriment to the existing character and historic interest of the settlement.

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”.

5.5 NLP Policy 1, amongst other things advises:

“Proposals for residential development should:

3. 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, and be appropriate in scale and design;”

5.6 So, it appears that policies LPP1 and Policy 1 conflict with SP3, as they seek to limit development to settlements, yet SP3, makes very clear its provision for sites adjoining settlements. This conflict presents a quandary in relation to how these policies should be applied and how this proposal should be determined.

5.7 Despite this quandary, another factor of significant relevance and importance to the determination of this application is the fact that Braintree is unable to demonstrate a 5 year housing land supply. As such, paragraph 11 d) of the Framework is engaged. What this means is that policies which are the most important in the determination of the proposal, in this case SP3, LPP1 and Policy 1 are rendered out of date and have only minimal weight in the determination of this proposal.

5.8 Paragraph 14 of the Framework is also important as the application site is subject to the policies of the Coggeshall NLP. The presence of an NLP where the ‘Tilted Balance’ is in play under paragraph 11d) is a key consideration.

Paragraph 14 advises:

“In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

a) the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;

b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement;

c) the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 74); and

d) the local planning authority's housing delivery was at least 45% of that required¹⁰ over the previous three years".

5.9 The application of paragraph 14 requires all four of the criteria, a) to d) to apply. However, in this case, criterion a) does not apply as the Coggeshall Neighbourhood Plan will have become part of the development plan more than two years ago. Therefore, paragraph 11d) applies and this application must be determined under the Tilted Balance. That balance being to consider whether any adverse impacts of the development, significantly and demonstrably outweigh the benefits of the proposal. In this case, there are no adverse impacts of significance that can be demonstrated, and which outweigh the benefit of an additional dwelling adding to the Council's housing supply.

5.10 **Accessibility**

The application site is a short walk to the main route into Coggeshall, on Colchester Road. The COOP Convenience store is 600m away, the centre of Coggeshall 900m and bus services on the A120 are 700m from the site. St Peter's Primary School is accessible on foot at 670m from the site.

5.11 Character and Appearance

The proposed dwelling is to sit within a ribbon of housing which is enclosed within an established planted boundary. This pocket of development is distinct from the wider open countryside. Within this setting, the new dwelling will be very discrete, as are the existing dwellings here and will not impact the wider countryside. The site itself is generous and will easily accommodate a single dwelling. The design and siting of which is a reserved matter.

Summary

- 6.0 The application site is adjoining the settlement of Coggeshall but is within the countryside for planning purposes. Policy SP3 makes provision for development adjoining settlements. However, policies LLP1 and Policy 1 of the Local Plan and NLP, advise that outside of settlements development is restricted. There is a clear conflict between policies. However, these policies are the most relevant policies associated with this proposal as they determine where development can take place.
- 6.1 Ordinarily, the local planning authority would consider this proposal to conflict with these development plan policies. However, at present the tilted balance is engaged due to the Council's housing supply position and these policies have little weight in this decision.
- 6.2 The proposal is unlikely to have any negative impacts on the area's, character and appearance. The site is accessible to shops, public transport and a school, in this respect the site is sustainably located.
- 6.3 Where the tilted balance is engaged development is to be supported, unless any adverse impacts significantly and demonstrably outweigh the benefits of additional housing contributing to a housing supply deficit. No adverse impacts have been identified, so, as a consequence, planning permission can be granted.

