The Planning Inspectorate

# Appeal Decision

Site visit made on 24 April 2017

**by Zoe Raygen Dip URP MRTPI**

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

**Decision date: 31 May 2017**

**Appeal Ref: APP/V2635/W/16/3163515**
**Land between 21-31 Leziate Drove, Pott Row, Kings Lynn, Norfolk PE32 1DB**

- 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 Mr & Mrs James & Katrina Rudd against the decision of King's Lynn and West Norfolk Borough Council.
- The application Ref 16/00635/O, dated 21 March 2016, was refused by notice dated 1 June 2016.
- The development proposed is residential development (4 dwellings).

## Decision

1. The appeal is dismissed.

## Procedural matter

2. The application is in outline form with all matters reserved for future consideration. I will determine the appeal on this basis. I have been supplied with an indicative site layout plan which I shall treat as illustrative only.

3. Since the Council determined the planning application it has adopted the Site Allocations and Development Management Policies Plan 2016 (SADMPP) which replaces the King's Lynn and West Norfolk Local Plan (1998). I have therefore determined the appeal accordingly.

## Main Issues

4. The main issue is whether the site is an appropriate location for the proposed development, having regard to the relevant policies for development in the rural area.

## Reasons

5. The appeal proposal is to erect four dwellings on land between 21 and 31 Leziate Drove. The site is grassed and bounded by housing to the east and west. Open countryside lies to the north and south of the appeal site.

6. Policy CS06 of the Kings Lynn and West Norfolk District Council Local Development Framework – Core Strategy 2011 (CS), regarding development in rural areas, adopts a strategic approach which focusses development in rural areas on Key Rural Service Centres. It is a hierarchical settlement strategy, a methodology common to many local plans which seeks to direct development to the most accessible locations while preventing the encroachment of

development into the countryside maintaining its intrinsic character and beauty. This approach is consistent with paragraphs 7 and 17 of the National Planning Policy Framework (the Framework). Pott Row together with the villages of Gayton and Grimston, are defined as a Key Rural Service Centre under Policy CS02 of the CS. However, the appeal site is outside the settlement boundary as identified in section G.41 of the SADMPP and is, therefore, classed as open countryside.

7. Development is strictly controlled in the countryside by Policy CS06 of the CS and Policy DM2 of the recently adopted SADMPP and limited to, for example, dwellings for local needs housing, affordable housing or market residential conversions, none of which are applicable in this appeal.

8. The Council advise that it has a 5.81 year housing land supply as referred to by the Inspector in appeal ref APP/V2635/W/14/2221650. The Council has also submitted further information to demonstrate that this is still the current position. As a result, in accordance with paragraph 49 of the Framework, relevant Policies for the supply of housing, such as Policies CS06 and DM2, can be considered up to date and given full weight.

9. On the face of it therefore the proposal would be contrary to Policies within the development plan the underlying aim of which is to provide development in accessible locations while avoiding urban sprawl and encroachment into the countryside. Therefore in accordance with paragraph 14 of the Framework planning permission should be withheld unless material considerations indicate otherwise. In this instance though the Council has failed to identify what actual harm would be caused by the development beyond pointing to conflict with the development plan and the Framework.

10. The appellants do not dispute that the proposal for four houses would be beyond the settlement boundary, nor would it be on an allocated site for development. However, they do consider that the development would be sustainable.

11. Paragraphs 7 and 8 of the Framework explain that the three mutually dependent dimensions to sustainable development are social, economic and environmental.

12. The location of the settlement limit marks a clear delineation between the continuous built frontage on the south side of Leziate Drove at the edge of the village of Pott Row and the beginning of more sporadic development, with gaps between the buildings, within the open countryside. On the north side of Leziate Drove built development is even more infrequent beyond the settlement boundary. As a result the countryside beyond the settlement limit has an open, low density, rural character. The open and undeveloped nature of the appeal site makes a positive contribution to that character.

13. I appreciate that the appeal proposals could be considered as being infill development between Nos 21 and 31, one being in the settlement limit and one on the outside. In this respect the proposal would not be physically isolated. Nevertheless, by infilling the gap here the introduction of four houses on the appeal site, would have significant visual impact in the countryside location. It would create a more continuous and intensive built frontage which would encroach into the rural area reducing the openness and eroding the sporadic nature of development beyond the settlement limit. As a result the

intrinsic character and beauty of the countryside at this location would be harmed. Moreover, the proposals would not meet the requirement of the environmental role of planning.

14. The proposal would be on the edge of the village and would be close to a footway providing pedestrian access to local services and facilities within the adjacent Key Rural Service Centre. In this respect therefore the proposal would have reasonable access to local services that would be in accordance with the requirements of the social role of planning. Furthermore, the proposal would not be locationally isolated.

15. Social and economic benefits would be delivered by providing four new homes. In this respect, the development would make a modest contribution to meeting housing requirements and choice in the Borough whilst supporting local services and businesses. There would also be temporary economic benefits arising from the construction activity required to deliver the development.

16. However, I have found that the proposal would cause considerable environmental harm and in this respect the site would not be an appropriate location for the proposed development. It would therefore be contrary to Policy CS06 of the CS and Policy DM2 of the SADMPP in that regard.

**Other matters**

17. While the appellants do not dispute the 5 year housing land position they do point out that it is marginal and there is a reliance on a high amount of windfall housing to meet the required targets. They consider that the appeal site would meet the definition of a windfall site.

18. The definition of windfall sites within the SADMPP is unallocated sites usually pre-developed (especially within towns). This is broadly similar to the definition contained within the Framework. While it is likely that windfall sites will contribute to the Council's 5 year housing land supply, such sites also need to comply with the development plan where, in this case, conflict has already been established.

19. Furthermore, whilst the housing guideline figure does not represent a maximum or a cap, I have seen nothing to suggest that more infill and windfall development sites may not become available within development boundaries. In that context, there is not sufficient justification for a proposal beyond the development boundary on a greenfield site that would be harmful to the character of the area.

20. The appellant refers to the requirement in the Framework for Council's to demonstrate a 10 year housing land supply. Paragraph 47 of the Framework refers to a five year supply of *deliverable* housing land and the requirement to identify a supply of specific *developable* sites or broad locations for growth for years 6-10. The two requirements are separate and distinct. Furthermore, paragraph 49 of the Framework only refers to a five year housing supply in the context of housing policies being out of date.

21. I understand that at the time of the consideration of a previous application submitted by the appellant in respect of the appeal site (15/01407/O) the Council were unable to demonstrate a five year housing land supply. As a result in accordance with paragraph 49 of the Framework relevant Policies for

the supply of housing were not considered to be up to date and therefore given limited weight.

22. The Council advise that at that time the applications on Leziate Drove which are further from the settlement boundary than the appeal site, referred to by the appellant, (15/02085/O, 16/00213/O and 15/02084/O) were granted in the absence of a five year housing land supply. I have also been party to correspondence between the appellant and the Council suggesting that at that time the Council may have been supportive of an application for housing on the appeal site. However, the application was withdrawn by the appellant due to issues around ecology.

23. By the time the application the subject of this appeal was determined this situation had altered and the Council was and is still able to demonstrate a five year housing supply. The second application and this appeal therefore have been determined under different circumstances which has affected the weight given to the relevant Policies. As a result a different conclusion has been reached.

24. I have seen a good deal of correspondence in relation to these issues including details of a formal complaint submitted by the appellant in respect of the Council's handling of the two planning applications. However, these are not planning matters that I can consider as part of this appeal that I have determined based on its own merits.

**Planning Balance and conclusion**

25. Paragraph 11 of the Framework indicates that planning permission should not be granted unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. In this case, the appeal proposal would be contrary to the development plan.

26. Although the site is not currently needed in order to ensure an adequate supply of deliverable housing sites, there is nothing in the Framework to suggest that the existence of a five year supply should be regarded as a restraint on further development. In this context, I attach moderate weight to the social and economic benefits identified based on the scale of development proposed. Nevertheless, either on their own or in combination, these material considerations do not outweigh the significant environmental harm I have identified to the character and appearance of the area.

27. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Zoe Raygen*

INSPECTOR