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## Appeal Decision

Site visit made on 17 July 2019

**by I A Dyer BSc (Eng) MIHT**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 July 2019**

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**Appeal Ref: APP/U2615/W/19/3225333**

**Top Farm, Martham Road, West Somerton, Somerton NR29 4DH**

- 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 D Ribbands against the decision of Great Yarmouth Borough Council.
  - The application Ref 06/18/0293/O, dated 9 July 2018, was refused by notice dated 24 September 2018.
  - The development proposed is the creation of single residential dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is for outline permission with all matters being reserved for future consideration. A site layout plan (Drawing No P-003) and a proposed floor plan (Drawing No P-001) were submitted with the application. I have taken the details shown on these plans as being illustrative only.
3. Following the Council's determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published in February 2019. The parties have had the opportunity to make comments on the revisions to the Framework as part of the appeal process.
4. The Great Yarmouth Draft Local Plan Part 2 (the Draft Local Plan) has been published for consultation but has yet to be examined and found sound. Therefore, it attracts limited weight as a material consideration.

### Main Issues

5. The main issues are whether the site is a suitable location for a dwelling having regard to local and national policy for the delivery of housing and use of land, and the effect of the development on the biodiversity of the area.

### Reasons

#### *Suitable location for a dwelling*

6. The appeal site lies on the south-eastern side of Dove House Lane, a rural road lacking footways and street lighting. In the vicinity of the appeal site the road is subject to a 60MPH speed restriction. On the opposite side of the road there is a small cluster of dwellings. The site is the rear part of a parcel of land that has previously been used in association with agricultural and industrial uses

and contains several existing structures, including three barns and two static caravans. The north-western boundary is a fence and the south-western boundary is a mature hedge. The other boundaries are more open. Along the north-eastern and south-eastern boundaries of the site there are several areas of overgrown land. Beyond the boundaries of the appeal site, to the east, south and west, lies open countryside.

7. There is no disagreement between the parties that the proposal lies outside of any development boundary identified within the development plan and is therefore designated as countryside. Policy HOU10 of the Great Yarmouth Borough Wide Local Plan -2015- (the Local Plan) provides certain criteria to be satisfied to allow the development of new dwellings in the countryside. The appellants make a very limited case that the proposal satisfies these criteria.
8. Martham, to the west of the site, has a range of services and facilities, including schools and a nursery, doctor's surgery, village hall, library shops (including a convenience store), public house and recreation facilities. West Somerton has a public house. However, the intervening roads are unlit and lack footways. To the west of the site there are bus stops providing an hourly service to Great Yarmouth and Gorleston, where there is a hospital. However, these are a significant distance away and the service is restricted in frequency.
9. The nature of the local roads with their lack of lighting and footways, vehicular speeds and the distances involved, are such that they would deter pedestrians and cyclists, particularly after dark, with children or during inclement weather and so residents of the site would still rely heavily upon the private car for their day-to day needs.
10. The Framework promotes sustainable development in rural areas, requiring that housing should be located where it will enhance or maintain the vitality of rural communities especially where this will support local services. The Framework recognises that rural housing development in smaller settlements can support services in a village nearby and that sustainable transport solutions will vary between urban and rural areas. The appeal site is located in close proximity to existing dwellings and is not isolated. However, in this instance, there is no meaningful alternative to using the private car to satisfy the day-to-day needs of future occupiers. With, given the limited scale of development, very limited scope to improve connections for walking, cycling or public transport, dependency upon private motor vehicles would be almost total.
11. The development re-uses previously developed land and the plans accompanying the proposal indicate the re-use of existing buildings. Whilst the Framework supports development that would re-use redundant or disused buildings this application is in outline only, with all matters reserved, there is no certainty that the final scheme would retain the existing buildings.
12. The site has an existing employment use, although the businesses that have operated from within the site have recently ceased operation. Although the Borough has land elsewhere for commercial and industrial type uses, including an Enterprise Zone, little substantive evidence has been provided to demonstrate that the existing permitted use would be unviable or would be better relocated elsewhere. The Framework supports a prosperous rural economy and the existing employment use would contribute to that economy, providing employment and economic activity.

13. I therefore find that the site is not a suitable location for a new dwelling, having regard to local and national policy for the delivery of housing and use of land. The development would therefore be contrary to Policy HOU10 of the Local Plan which seeks to restrict new dwellings in the countryside except for those required in connection with agriculture, forestry, organised recreation or the expansion of existing institutions. It would also be contrary to the aims and objectives of the Framework which seek to locate development in locations that promote sustainable travel and limit future car use and support a prosperous rural economy. Further, although, for the reasons stated above, carrying limited weight, the proposal would also be contrary to emerging Policy G1 of the Draft Local Plan, which also seeks to restrict new dwellings in the countryside.

#### *Biodiversity*

14. The Council considers that, given the location, make up of the site and presence of buildings a protected species survey, in specific regard to bats, which are protected species under the Wildlife and Countryside Act (as amended) and the EC Habitats Regulations, is needed to ensure that protected species will not be adversely affected. No such survey has been submitted. Notwithstanding that some works have been carried out to one of the brick buildings, in the absence of a survey there is little evidence before me to suggest that the site is devoid of protected species.
15. Given the location of the site and the presence of the buildings and overgrown land to provide habitats I consider it reasonable to require such a survey. Whilst the appellants suggest that such a survey could be the subject of a planning condition, Government Circular 06/05: Biodiversity and Geological Conservation – Statutory Obligations and their Impact Within the Planning System advises that the presence or otherwise of protected species should be established prior to granting planning permission, and I have very limited information before me to justify an exception in this case.
16. In the absence of a protected species survey I cannot be satisfied that the development would not have an unacceptable impact upon the biodiversity of the area and so the proposed development would be contrary to the aims set out in Section 15 of the revised Framework – Conserving and Enhancing the natural environment.

#### **Other matters**

17. The parties agree that the Council is unable to demonstrate a five year housing land supply. Therefore Paragraph 11 d) of the Framework applies.
18. The development would provide benefits in terms of delivering an additional home to boost housing supply albeit that, irrespective of any shortfall in supply, a single home would only have a limited benefit. There would be minor benefits to the local economy in terms of short term employment in the construction industry and longer term support to shops and businesses.
19. The appellants have referred to the Self-build and Custom Housing Act 2015, and the Housing and Planning Act 2016. National policy and guidance supports and encourages the provision of self-built housing. However, there is nothing within the documentation accompanying the planning application to indicate that the proposed development is a self-build development or that the

appellants are entered on a self-build register. Taken together these benefits carry limited weight.

20. The appellants assert that, as the site is not within a designated area of high landscape value, the countryside is not of high environmental value. Whilst the site itself is somewhat unkempt with some shrub cover, and buildings undergoing renovation, it is not out of keeping with the rural character of the area around it. The Framework recognises the value of the intrinsic character and beauty of the countryside. Therefore, I attach this matter limited weight.
21. The development re-uses previously developed land. The plans accompanying the proposal indicate the re-use of existing buildings and the Framework supports development that would re-use redundant or disused buildings and enhance its immediate setting. However, as this application is in outline only, with all matters reserved, there is no certainty that this would be the case. Therefore, this matter attracts moderate weight.
22. I have found that the proposal would be contrary to a policy within the Local Plan which restricts the development of new dwellings within the countryside. However, when viewed against the policies in the Framework that encourage a more proactive approach to housing provision, the criteria identified within the policy are more restrictive overall and I consider this policy is only partially consistent with the Framework in seeking to promote sustainable development in rural areas. Similarly, the proposed development would be contrary to a policy within the Emerging Local Plan. The Emerging Local Plan is at an early stage and so together these conflicts attract moderate weight.
23. The development would replace a business use on the site, which could provide employment and other benefits to the rural economy. This argument attracts moderate weight.
24. Given the location of the site and the lack of access to safe walking and cycling routes or public transport to provide for day to day needs it is likely that future occupants of the development would be heavily reliant on private motor vehicles to access local shops and services. Together with the conflict that I have found with the aims set out in Section 15 of the Framework, and the importance placed within the framework on protecting biodiversity, these are significant factors weighing against the scheme.
25. In conclusion the identified harm would significantly and demonstrably outweigh the limited benefits provided by the scheme when considered against development plan policies and the Framework when read as a whole.
26. The development falls within the protection zone of a European designated site (EDS) and the appeal site is in a location where occupiers of the development are likely to use the EDS for recreational purposes. Thus, I cannot rule out the possibility that the development would have adverse effects on the integrity of the designated site, either alone or in combination with other planned development. In those circumstances, having regard to the Habitats Regulations, planning permission should not be granted unless an Appropriate Assessment (AA) has been undertaken to assess the likely effects. Such an assessment is necessary regardless of the status of the existing and emerging policies of the development plan.

- 27.** Following recent case law, potential mitigation cannot be taken into account when determining whether an AA is required but may be considered if an AA has been undertaken and determined that the development would harm the integrity of the EDS. However, as I am dismissing for other reasons it is not necessary for me to consider this matter further as it could not change the outcome of this appeal.

**Conclusion**

28. For the reasons given above the appeal is dismissed.

*I Dyer*

INSPECTOR