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# Appeal Decision

Site visit made on 16 July 2020

**by C Beeby BA (Hons) MIPROW**

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

**Decision date: 4<sup>th</sup> September 2020**

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**Appeal Ref: APP/V2635/W/20/3247292**

**Rear of The Willows, Upwell, Wisbech PE14 9ET**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs A Broker against the decision of King's Lynn and West Norfolk Borough Council.
  - The application Ref 19/01644/F, dated 18 September 2019, was refused by notice dated 17 December 2019.
  - The development proposed is the residential development of 1 no 2 bed bungalow with detached double garage.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is whether the appeal site would be a suitable location for the scheme, having regard to the spatial strategy for the area.

## Reasons

3. The appeal site comprises rear garden land towards the end of Workhouse Lane and behind the properties "Riverside" and "The Willows". Built form along the lane provides a defined edge to the settlement of Upwell. As an area of open land behind houses the site supports this limit to the village's extent.
4. The site lies outside the development boundary for the settlement and is consequently categorised as "countryside" according to Policy DM2 of the King's Lynn and West Norfolk Site Allocations and Development Management Policies Plan (2016) "the SADMP". The supporting text to Policy DM2 sets out that one of its aims is to limit urban and village sprawl.
5. Policy DM2 limits new development in areas outside development boundaries to that identified as suitable in rural areas by other policies of the local plan, giving examples of these. Although the policy does not expressly restrict residential development which adjoins settlement boundaries, it clearly sets out the types of development which are suitable in rural areas. The appeal proposal does not form one of these and therefore it is unsuitable development in the area concerned according to Policy DM2.
6. Policy CS06 of the King's Lynn and West Norfolk Local Development Framework Core Strategy (2011) ("the CS") concerns development in rural areas. It sets out that the countryside will be protected for its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, and its natural resources. Development proposals which will be supported are those for farm

diversification, the conversion of existing buildings for business and conversion to residential use, in particular circumstances.

7. No evidence is before me to suggest that the proposed dwellings would be essential for agricultural or forestry needs. The scheme does not propose farm diversification or the conversion of buildings. Therefore the scheme does not meet any of the criteria within Policy CS06 of the CS.
8. The proposal would develop open land which lies towards the edge of the village. It would consequently extend the village sprawl and would cause moderate harm by the undermining of the Council's spatial strategy, because it conflicts with the intended distribution of development in the area.
9. Thus, the appeal site would not form a suitable location for the scheme, having regard to the spatial strategy for the area. As a result, the proposal conflicts with Policy CS06 of the CS, the aims of which are set out above. Further conflict exists with Policy DM2 of the SADMP, which identifies suitable types of development within the countryside.

### **Other Matters**

10. It is common ground between the parties that the proposal would not cause unacceptable harm to the character and appearance of the area if the existing established boundary treatments are retained. Thus, it does not conflict with the elements of Policies CS01 and CS02 of the CS and Policy DM15 of the SADMP which concern good design. It also complies with the provisions of paragraph 124 of the National Planning Policy Framework (2019) ("the Framework") concerning design.
11. It is additionally common ground that the site forms previously developed land ("PDL") in accordance with the definition within the Framework, and I see no reason to depart from this view. The site's proximity to the village of Upwell, which has some services and facilities, is also uncontested. The proposal would therefore be likely to enhance or maintain the vitality of the rural community. The Framework lends support for the use of PDL and for the location of housing where it will support local services. Policy CS08 of the CS also supports the use of PDL. Accordingly, these two matters form benefits of the proposal, to which I attach a modest degree of weight, as the site area is relatively small and only one dwelling is proposed.
12. The appellant has provided a copy of a Suitability Assessment for land which lies adjacent to the appeal site. This assesses the site concerned with regard to various constraints. I acknowledge that the document shows that the site receives a score of "green" in respect of utilities infrastructure, contamination, flood risk and coastal change. However, the document relates to a different area of land from the appeal site and therefore there can be no certainty that an identical assessment of the two areas would be made. Furthermore, even if the appeal site was to be allocated similar scores on the four matters concerned, these are all neutral issues which would not form a particular benefit of the appeal proposal. As a result, I attach minimal weight to the ability of the document to provide support for the appeal proposal.
13. My attention has been drawn to a number of other development schemes in the vicinity<sup>1</sup>. However, these sites were within or partially within the development

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<sup>1</sup> Local Planning Authority References: 19/01588/O, 15/00170/F, 08/1124/O and 13/00334/RM

boundary for the settlement. A further scheme<sup>2</sup> related to an area of land beyond the development boundary which is significantly smaller than the appeal site. Furthermore, it concerns a change of use of the land to residential garden, including a garage. As the appeal proposes the construction of a dwelling outside the settlement boundary there are consequently considerable material differences between the proposal and the other schemes. Accordingly, I attach limited weight to their relevance in determining the appeal.

14. The Council partly relies on paragraph 79 of the Framework in refusing permission. This sets out that planning decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply. Case law<sup>3</sup> has established that the word "isolated" in the phrase "isolated homes in the countryside" simply connotes a dwelling that is physically separate or remote from a settlement. The settlement of Upwell has a highly linear and fairly continuous pattern of development, of which Workhouse Lane forms the edge. The proposed dwelling would adjoin development along the lane and lies within a reasonable distance of the settlement. As a result, the proposal would not create an isolated home in the countryside. Thus, paragraph 79 of the Framework has limited relevance to the main issue of this appeal.
15. The appellant contends that the proposal complies with Policy DM1 of the SADMP in terms of design, location, accessibility and development density and Policy CS02 of the CS in terms of the latter three of those matters. Nevertheless, these policies set out a presumption in favour of sustainable development and a settlement hierarchy respectively, and consequently they do not overtly concern the matters referred to. Therefore I do not concur with the appellant's submissions in this regard.
16. Workhouse Lane is not street lit and it lacks a footway. Furthermore, there are limited level places to take refuge along its verge. Thus, I do not consider that accessibility for pedestrians and cyclists from the development would form a benefit of the proposal. As a result, I do not concur with the submission that Policies DM15 of the SADMP and CS08 of the CS lend support for the proposal in this regard.

## **Conclusion**

17. Decisions must be taken in accordance with the development plan unless material considerations indicate otherwise. Whilst the use of PDL and support for local services attract modest weight as benefits of the proposal, I have found that it would cause moderate harm by the undermining of the spatial strategy.
18. The modest benefits identified are consequently insufficient to justify a deviation from local plan policy in this case. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

*C Beeby*

INSPECTOR

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<sup>2</sup> LPA Ref: 12/01663/CU

<sup>3</sup> Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610