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## Appeal Decision

Site visit made on 22 August 2024

**By David Spencer BA(Hons) DipTP MRTPI**

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

**Decision date: 24<sup>th</sup> September 2024**

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**Appeal Ref: APP/V2635/W/24/3339927**

**Land East of 99 Westgate Street, Shouldham, Norfolk PE33 0DF**

- 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 Craig Denby of Somerton & Denby Developments against the decision of King's Lynn & West Norfolk Borough Council
  - The application Ref 23/01017/O, dated 6 June 2023, was refused by notice dated 28 September 2023.
  - The development proposed is residential development.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters and Main Issues

2. The site address in the decision banner above is taken from the Local Planning Authority's (LPAs) decision notice, which I consider more accurately identifies the appeal location.
3. The proposal was submitted in outline with all detailed matters reserved for later consideration, including layout, scale, appearance, landscaping and access. The plans before me include a site layout plan which is to be regarded as indicative only. This plan shows 8 dwellings and that is a capacity of the site referred to elsewhere on the application form and by the appellant in their appeal evidence. The LPA also made its decision on this basis, and so shall I.
4. The main issues in this appeal are:
  - i) whether the appeal site would be a suitable location for the development proposed; and
  - ii) the effect of the proposal on the character and appearance of the surrounding area.

### *Suitable Location*

5. The appeal site is a small pocket of undeveloped land bounded by low hedges to the west and east and partly along the north. To the south of the site are buildings at the edge of Shouldham including a bungalow on New Road adjacent to the south-east corner of the site. Further housing is to the west of the site on Westgate Street. To the east more recent housing development extends along New Road. To the north of the site are playing fields and a children's play area, set within an area generally bounded by mature trees and separated from the appeal site by the narrow lane of Fairstead Drove.

6. Shouldham is a small village, some distance from the nearest towns. It contains a modest range of services and facilities commensurate with its size. The appeal site is not isolated, it adjoins but is beyond the development boundary for Shouldham as identified on the Policies Map. Accordingly, for the purposes of local planning policy the site is deemed part of the countryside, which accords with what I have observed on site, as described above. The appeal proposal would comprise an extension to the existing built-up area of the village.
7. Policy CS01 of the 2011 King's Lynn & West Norfolk Local Development Framework Core Strategy seeks to secure a sustainable pattern of development by focusing most development, including housing, to sustainable development locations, namely the main urban centres and only locally appropriate levels of growth to rural villages. Policy CS01 states that the focus for most new development, including housing, within the rural areas of the borough will be in the key rural service centres. Policy CS02 of the Core Strategy confirms that Shouldham is a rural village within the borough settlement hierarchy and not a key rural service centre. Policy CS01 further states that the countryside beyond the villages will be protected for its intrinsic character and beauty. As such there is a clear spatial strategy that does not envisage a significant role for Shouldham in providing new homes as part of a sustainable pattern for development.
8. This is then extended into Policy CS06 of the Core Strategy which specifically deals with development in rural areas. It confirms that in rural villages (such as Shouldham) more modest levels of development will be permitted to meet local needs and maintain the vitality of these communities where this can be achieved in a sustainable manner, and without detriment to character of the surrounding area. Policy CS06 then goes on to say that beyond the villages and in the countryside the strategy will be to protect the countryside for its intrinsic character and beauty and the development of greenfield sites will be resisted unless essential for agricultural or forestry needs. Policy CS06 sets a permissive framework for further housing and infilling within development boundaries, such that there is not a blanket ban on further housing in rural villages.
9. The implementation of the Core Strategy is then carried into the subsequent Site Allocations and Development Management Policies Plan 2016 (*the SADMP*) Policy DM2 confirms development boundaries as shown on the Policies Map. Policy DM2 states that the areas outside of settlement boundaries will be treated as countryside where new development will be more restricted and will be limited to that identified as suitable in rural areas by other policies of the local plan. Examples are provided in Policy DM2. The appeal proposal would not accord with any of these scenarios. Furthermore, both the LPA and Shouldham Parish Council refer to recent housing developments in Shouldham including small, allocated sites as part of the SADMP. This indicates that the current development plan has allowed for proportionate housing delivery in Shouldham, further reducing the need to now release the appeal site.
10. The appellant submits that Shouldham has some sustainability credentials that the appeal scheme could utilise and further support, including a primary school, public house, post office and village hall. Reference is also made to bus services in the village, which whilst daily are generally of limited frequency (every 2 hours to King's Lynn). There are various points in the village where

buses stop. From my observations, none of them have waiting facilities, reducing the attractiveness of buses as a mode of transport. Overall, there are good societal services in Shouldham but it remains that occupiers of the appeal proposal would have to travel further afield on a regular basis for basic health, retail and general employment. Consequently, there would be a significant reliance on the private vehicle contrary to the clear objective in the development plan's spatial strategy to focus housing to higher order settlements where the need to travel would be significantly less. Accordingly, the modest sustainability credentials of Shouldham, as a small rural village, and the appeal proposal's modest scope to support their vitality is only a material consideration of limited weight in favour of the appeal proposal.

11. In coming to this view, there is no evidence before me that facilities such as the village pub or the primary school are struggling and require additional development to sustain them. Nor is there evidence that circumstances have changed in Shouldham since the Core Strategy was prepared such that its status as a rural village for the purposes of Policy CS02 is now out-of-date.
12. The appellant places some emphasis on the National Planning Policy Framework (NPPF) which at paragraph 60 states that the Government's objective is to significantly boost the supply of homes. The NPPF at paragraph 83 states in relation to promoting sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The paragraph then goes on to say. "Planning policies should identify opportunities for villages to grow and thrive." (my underlining). In contrast to various other parts of the NPPF, paragraph 83 does not refer to "decisions" or "decision-making". Whilst the NPPF is an important material consideration, it does not affect the development plan as the starting point for determining planning applications as per Section 38(6) of the Planning & Compulsory Purchase Act 2004 (as amended). NPPF paragraph 83 fits into this plan-led approach, rather than functioning as a signal for piecemeal edge of village development contrary to an adopted up to date development plan.
13. Additionally, NPPF paragraph 114 states that applications for development should ensure that appropriate opportunities to promote sustainable transport modes are taken up given the type of development and its location. Paragraph 109 of the NPPF says opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision-making. This is reflected in Policies CS01, CS02 and CS06 and DM2 which allow for growth proportionate to the sustainability of the settlement. There are very limited means of maximising sustainable transport solutions in relation to the appeal proposal, given most essential day-to-day services and employment are beyond walking and cycling distances and bus services are relatively limited. The appellant says car journeys would be short, but I am not clear on what basis that assessment is made<sup>1</sup>. In any event short car journeys are not specifically identified as a sustainable transport mode as defined in the NPPF glossary. Nor are they compatible with the NPPF at paragraph 157 in terms of the need to shape places in ways which contribute to radical reductions in greenhouse gas emissions.
14. In conclusion on this main issue, the appeal site would not be a suitable location for the development proposed. By virtue of being outside of the

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<sup>1</sup> Paragraph 1.6 of the appellant's statement of case refers to distances to King's Lynn (10km), Downham Market (8km) and Swaffham (14km).

settlement boundary in a rural village with limited sustainability credentials, it would be contrary to Policies CS01, CS02 and CS06 of the Core Strategy and Policy DM2 of the SADMP. This comprehensive conflict with these development plan policies must be given negative weight in any planning balance.

#### *Character and Appearance*

15. As set out above, the appeal site is parcel of undeveloped rural land. It is not part of a valued landscape as per NPPF paragraph 180a, but that does not mean the appeal site does not have value as part of the local environment, in terms of the wider landscape and settlement setting at this edge of Shouldham.
16. It has the characteristic of a small pastoral field. Whilst there is no public access to the land, it nonetheless provides a sense of openness and pleasant verdancy. Whilst there is generally residential development on three sides, the appeal site has a strong relationship in terms of its character and appearance with the openness of the playing fields to the north and the wider countryside beyond. Various older houses, cottages and rural buildings are orientated towards and around the appeal site, particularly to the west and south, providing a palpable sense that the appeal site has been a long-established parcel of open land, and as such makes a positive contribution to the setting of this part of Shouldham. Overall, it provides a pleasant pocket of countryside extending into the village.
17. Whilst matters such as layout, landscaping and appearance remain to be determined, it is clear that the appeal proposal seeks to make an efficient use of the site, including the appellant's reference to a capacity of 8 dwellings. Accordingly, the positive contribution arising from the openness and verdancy of the appeal site would be lost to the detriment of the character at this rural edge of the village, as it transitions into the wider countryside. Overall, the proposed development would have a harmfully consolidating effect.
18. I therefore conclude that the appeal site would result in harm to the character and appearance of the surrounding area. It would be contrary to Policies CS01 and CS08 of the Core Strategy which seek to protect the countryside for its intrinsic character and beauty and ensure that development responds to the context and character of places in West Norfolk. The proposal would also conflict with NPPF paragraph 180b) which seeks development should contribute to and enhance the local environment by recognising the intrinsic character and beauty of the countryside.

#### *Other Matters*

19. Whilst not cited the LPAs decision notice as a reason for refusal, the LPAs officer report and appeal statement raise issues regarding affordable housing and the absence of a mechanism to secure mitigation for impacts arising from recreational disturbance on proximate protected habitats. I note the appellant initially sought a hearing and may have anticipated these matters being addressed as part of that process. This may explain why there is relatively little before me and whether they could be appropriately addressed by condition or a planning obligation. Nonetheless, because I am dismissing the appeal for other reasons, there is no need for me to address these matters further in this appeal, including the need to undertake an appropriate assessment as part of the Habitats Regulations.

20. The appellant has submitted two appeal decisions that have allowed housing outside of settlement boundaries. The first is in the Borough and relates to a single self-build dwelling<sup>2</sup>. This is a materially different type and scale of proposal compared to what is before me. I have few details on the village services in that case, noting that the main issue related to form and character of the area only. I give this decision very little weight. The second appeal<sup>3</sup> relates to a scheme for 6 bungalows in Horsford. I have little before to compare the wording of Policy GC2 in that appeal with SADMP Policy DM2 here. The SADMP was examined for consistency with the NPPF and has allowed for housing in smaller rural villages like Shouldham. As such I cannot share a similar conclusion as found for Policy GC2 in the Horsford appeal. Moreover, I note that Horsford is identified as a 'service village' in contrast to the smaller rural village designation at Shouldham. This is exemplified by the range of facilities listed at paragraph 6 of that decision, together with references to a frequent daily bus service into Norwich. The Horsford appeal also found no unacceptable effect on character and appearance. As such I do not consider this appeal decision to be of particular relevance to the circumstances in this appeal. The appellant's appeal statement also refers to an appeal from 2018 in Babergh District, Suffolk but I have relatively few details about it. From the summary of that decision at paragraph 5.11 of the appellant's statement of case I accept there would be some similarities with the appeal scenario here, however, I am not bound to arrive at the same conclusion given the particular policy conflict and harms identified here.

### **Balance and Conclusion**

21. The appeal proposal would not be appropriately located and would not comprise a type of housing development outside of the established development boundary for which support can be found for in the development plan. It would be contrary to the spatial strategy for the Borough and the need to carefully manage development outside of development boundaries in the smaller rural villages to secure sustainable patterns of development in a planned system. There would also be an unacceptable effect on the character and appearance of the surrounding area through the loss of a pleasant pocket of open land providing a positive connection to the wider countryside at the village edge.
22. The appellant invites significant doubt to be given to whether the LPA can demonstrate a five year housing land supply. I do not have sufficient evidence on this, for example a recent appeal decision where the matter has been thoroughly tested or a detailed analysis by the appellant of the LPAs current position. Consequently, the LPAs firmly held position that it has a deliverable supply is not undermined. Accordingly, the titled balance at paragraph 11d) of the NPPF is not engaged and the policies most important to this decision are to be considered up to date.
23. The proposal would deliver additional housing dwelling and would do so on a relatively small site, such the appeal proposal has the potential to deliver quickly to assist in meeting housing needs. Nonetheless, I give the social and economic benefits of residential development at the appeal site only limited positive weight, including the potential of the dwellings to further support the existing facilities in Shouldham. Overall, the limited benefits identified would

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<sup>2</sup> APP/V2635/W/22/3290121

<sup>3</sup> APP/K2610/W/20/3255135

not amount to a material consideration sufficient to outweigh the conflict with the development plan. As such the appeal proposal would not amount to sustainable development for which there is a presumption in favour as set out in the NPPF and at Policy DM1 of the SADMP.

24. I have had regard to all other matters raised, but there is nothing that leads me to conclude other than the appeal should be dismissed for the reasons given.

*David Spencer*

Inspector.