

## Appeal Decision

Site visit made on 24 September 2024

**by E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 14<sup>th</sup> October 2024**

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**Appeal Ref: APP/V2635/W/24/3341300**

**Rosaside, 31 Low Road, Stow Bridge, Norfolk PE34 3PE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mrs O Gooding against the decision of King's Lynn and West Norfolk Borough Council.
  - The application Ref is 23/01342/O.
  - The development proposed is one chalet dwelling.
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### Decision

1. The appeal is dismissed.

### Background and Main Issues

2. The Council's assessment, as set out in its Planning Officer Report, found the proposal would not pass the Exception Test for flood risk contained in the National Planning Policy Framework (the Framework). The Council suggests this was omitted in error from the Decision Notice as a reason for refusal.
3. Paragraph 224 of the Framework states its policies are material considerations which should be taken into account in dealing with applications. The appellant's statement identifies relevant policies, including those relating to flood risk, and responds to the Council's conclusions in respect of the Exception Test. Therefore, I am satisfied no party would be prejudiced by my consideration of matters of flood risk as a main issue.
4. On this basis, the main issues in this appeal are:
  - Whether the proposed development would be in a suitable location, having regard to the local development strategy;
  - the effect of the proposed development on the character and appearance of the area; and
  - whether the proposed development's siting in an area of high flood risk would be justified.

## Reasons

### *Whether in a suitable location*

5. The site is within the settlement of Stow Bridge, which is designated as a 'Smaller Village and Hamlet' by the King's Lynn & West Norfolk Borough Council Core Strategy 2011 (CS).
6. Policy CS06 supports modest levels of development within Smaller Villages and Hamlets but directs most growth to higher order settlements to promote sustainable patterns of development and ensure strong, diverse economic activity, maintain local character and a high-quality environment.
7. At C.4.2, the Site Allocations and Development Management Policies Plan 2016 (SADMPP) explains Smaller Villages and Hamlets are of modest size, with a rural character, and a more limited range of services and facilities. Within Smaller Villages and Hamlets, SADMPP Policy DM3 limits developments to types considered suitable in rural areas. For housing development, this includes the sensitive infilling of small gaps within an otherwise continuously built-up frontage, subject to the development being appropriate to the scale and character of the group of buildings and its surroundings, and it not filling a gap which provides a positive contribution to the street scene.
8. The site comprises an area of rear garden associated with an existing dwelling. The proposed dwelling would be set back behind the row of existing dwellings fronting onto Low Road and would not be sited within a small gap within an otherwise continuous frontage.
9. Consequently, the proposed development would not comply with the criteria for infill development within Small Villages and Hamlets as set out at SADMPP Policy DM3. The proposed development would not therefore be in a location supported by the local development strategy.

### *Character and appearance*

10. The appeal site is an area of rear garden with an independent access. The site is on the north side of Low Road, toward the western end of the village. Low Road is generally characterised by dwellings arranged in a linear pattern.
11. The proposed dwelling would be sited behind Roseside, a modern, detached bungalow with a low-pitched roof, set back from Low Road by a front garden and driveway. There are a variety of house types toward the north and east of the site, including chalet bungalows adjacent to the appeal site. However, Roseside is typical of the modest bungalows which front onto Low Road at this end of the village.
12. Beyond the rear boundary of the site are open fields. There are views across this agricultural landscape from Low Road through gaps between dwellings. The area is therefore characterised by buildings of modest height and scale, arranged in a spacious, linear built form, and set within a rural landscape.
13. The appeal site has been formed through the subdivision of the host dwelling's garden and is smaller than surrounding dwelling plots, and the proposed dwelling would be sited behind the row of existing dwellings. The

plot size and siting of the proposed development would therefore appear out of keeping the layout of surrounding dwellings.

14. Since the proposal seeks outline planning permission, the final design of the proposal is not yet known. However, the development is described as a chalet bungalow and as discussed below, the design would be influenced by measures to mitigate flood risk including raised floor levels and living accommodation at the first floor. The proposed dwelling would comprise 1.5 storeys and have a higher roof ridge height than Roseside and would therefore be greater in height and mass than the dwelling it sits behind. The proposed dwelling roof would be visually prominent above Roseside and would appear imposing from Low Road.
15. The proposed dwelling would be clearly visible from Low Road via the driveway access between Roseside and neighbouring dwelling no 33. Through increasing the density of development, the proposal would erode the spacious layout of dwellings in the area.
16. The long rear gardens of surrounding dwelling plots provide a transition between the built form and the countryside and contributes positively to the setting of the village. Whilst it would not breach the existing field boundary to the rear, the proposed dwelling would have an urbanising effect on the site by introducing built form behind the established building line. Through development of an area of garden land, the development would obstruct views to the fields behind and appear to encroach into the countryside.
17. The appeal site abuts the plot of The Birches, a bungalow set back behind the row of dwellings fronting Low Road and is atypical of the pattern of development in the area. However, The Birches occupies a larger plot comprising the width of the two dwellings to the front, thereby retaining some characteristics of the area's spacious layout. Moreover, the dwelling appears to significantly pre-date the development plan and the Framework. The appellant identifies examples of development set back behind other dwellings on the south and east side of Low Road. This includes a group of dwellings clustered around a private road to form a small cul-de-sac development and a dwelling rear of nos 12 and 14. There is greater variety in the layout of development on the south and eastern side of Low Road, which are visually separate from the appeal site. Conversely, the linear pattern of development is more prevalent in the area surrounding the appeal site. Such examples are materially different from and do not justify the siting of the proposed dwelling.
18. As set out above, the siting of the proposed dwelling would be out of keeping with the prevailing pattern of development and would have an urbanising effect on the site which would be perceived as encroachment into the countryside. Through its height, mass and siting, the proposed dwelling would not be commensurate in scale and character with surrounding development but would appear visually dominant within the street scene and erode views toward the rural landscape. For these reasons, the proposal would harm the character and appearance of the area.
19. The proposal would therefore conflict with CS Policy CS06 and CS Policy CS08 which require proposals maintain local character and respond to their context by ensuring the scale, density, and layout enhance the quality of the environment. In addition, the proposal would not comply with SADMP Policy

DM15 which requires the scale, height, massing, materials and layout of a development respond sensitively and sympathetically to the local setting and pattern of adjacent streets through high quality design and use of materials.

#### *Flood risk*

20. The appeal site is within Flood Zone 3 and therefore comprises land with a high annual probability of flooding from rivers or the sea. The site is in an area covered by Tidal Hazard Mapping where it is shown that the site could flood up to 1.0m should the flood defences be breached.
21. Paragraph 165 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The Council acknowledges that whilst a large area of Stow Bridge is situated within flood zones 1 and 2, no plots are available for development.
22. The proposal would involve construction of a new dwelling. Annex 3 of the Framework classifies dwellings as 'more vulnerable' to the risks of flooding. The Planning Practice Guidance's (PPG) *Table 2: Flood risk vulnerability and flood zone 'incompatibility'* requires the exception test be passed for 'more vulnerable' development in Flood Zone 3a.
23. The Exception Test at paragraph 170 of the Framework requires it be demonstrated that: (a) the development provide wider sustainability benefits to the community that outweigh the flood risk; and (b) the development be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, reduce flood risk overall.
24. The proposal would provide social and economic benefits through the contribution of one dwelling to the area's housing stock. However, the Council can demonstrate a sufficient supply of housing land and I have no evidence to suggest the area's housing needs could not be met on sites of lower flood risk. The provision of one dwelling would make only a small contribution to the supply of housing. The proposal would therefore offer modest community benefit, but this would be of insufficient magnitude to outweigh the flood risk.
25. To mitigate flood risk, the Flood Risk Assessment (FRA) recommends the construction of the dwelling include a range of flood prevention measures, including that the living accommodation be provided at first floor level, finished floor levels be raised above existing ground levels, and encourages future occupants sign up to the flood warning service. The Environment Agency raised no objection to the scheme subject to implementation of the recommendations of the FRA.
26. Nonetheless, paragraph 171 of the Framework states development should only be permitted where both elements of the Exception Test are met. As set out above, the proposal would not provide wider sustainability benefits to the community that outweigh the flood risk, and therefore the development would not comply with paragraph 170(a) of the Framework. The proposal therefore fails the Exception Test and the siting of the proposed development in a high flood risk area is not justified.
27. The proposal would therefore conflict with CS Policy CS08 which requires that proposals demonstrate they would contribute to the wider sustainability

needs of rural communities where the development's vulnerability type is not compatible with the flood zone.

### **Other Matters**

28. The proposed development would fall within the 'Zone of Influence' (ZoI) of one or more of the European designated sites scoped into the Norfolk Green Infrastructure and Recreational disturbance Avoidance and Mitigation Strategy, which identifies that new residential development in this area is likely to have a significant effect on the interest features of European sites through increased recreational pressure, when considered either alone or 'in combination' with other plans and projects.

29. Where a proposal is likely to have significant effects on European sites, Regulation 63 of the Habitats Regulations requires the competent authority carry out an Appropriate Assessment (AA). However, AA is only necessary where the competent authority is minded to grant consent for the proposal. Since I am dismissing the appeal due to identified harms in respect of the suitability of the proposed location, character and appearance, and flood risk, AA is not necessary.

### **Conclusion**

30. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed.

*E Dade*

INSPECTOR