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## Appeal Decision

Site visit made on 2 June 2025

by **T Bennett BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 5 June 2024

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**Appeal Ref: APP/V2635/W/25/3361400**

**Land adjacent to 8 Hillside, Marham, Norfolk PE33 9JJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mrs Julia Mclelland against the decision of King's Lynn and West Norfolk Borough Council.
  - The application Ref is 24/01222/CU.
  - The development proposed is change of use from open land to garden.
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. During the course of the appeal, the Council adopted the Kings Lynn and West Norfolk Local Plan 2021-2040 (LP) on 27 March 2025. This replaced the Site Allocations and Development Management Policies Plan (2016) and Core Strategy (2011). In light of this, the main parties have been given the opportunity to provide comments on the new LP in relation to their cases. I have had regard to the comments received and have considered the proposal against the relevant policies in the LP.

### Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

### Reasons

4. The appeal site is a grassed area located in a prominent corner position between Nos 8 and 9 Hillside. On the opposite side of the road there is a small area of open space similar to the appeal site which also has an open frontage, as well as a larger area of open green space in the centre of the residential estate.
5. A large, tall, mature cherry tree is located in the centre of the appeal site which does not have a tree preservation order. The cherry tree can be seen in wider public views and consequently has a high amenity value.
6. Collectively, the appeal site and surrounding areas of open green space, create a sense of spaciousness and, along with the cherry tree, contributes positively to the open, verdant character and appearance of the residential area.
7. The proposed change of use from open land to residential garden would enclose the land, either with a hedgerow, a low picket fence or other form of vegetation.

The enclosure would lead to an erosion of the sense of spaciousness and openness that currently exists in this prominent corner position, with a consequent loss of public open green space, which is a defining characteristic of the estate.

8. Given the height and location of the cherry tree, a change of use to a residential garden could increase the pressure to significantly prune the tree. This could have an adverse effect on the wellbeing of the tree, which, if the tree were to decline, would exacerbate the harm I have already identified. Whilst I note the appellants' intentions and that they themselves may not prune the tree, the granting of planning permission runs with the land; thus, there is no guarantee that any future occupiers would not cut back the tree.
9. I note the appellants' objectives are to prevent children from climbing the cherry tree and to prevent vehicles parking on the land. However, these aims do not outweigh the harm that would arise to the character and appearance of the area. Furthermore, I am not persuaded that a change of use of the land is the only way in which these objectives could be achieved.
10. For the reasons above, the proposal would have a significant adverse effect on the character and appearance of the area. Accordingly, it would conflict with Policy LP26 of the LP. This seeks to protect local open space, where amongst other matters it contributes to local distinctiveness and visual amenity. It would also conflict with Policies LP21 and LP18 of the LP which, taken together, requires development to conserve and enhance the amenity of the wider area and enhance the local distinctiveness of the area.

### **Other Matters**

11. The appellant has made reference to a hedge being permitted around the open space in the centre of the residential estate. I observed a young hedgerow along part of the boundary of the open green space opposite the appeal site. However, it has not enclosed the entirety of the space. As such, it does not alter my conclusions above.
12. Whilst the potential introduction of a hedgerow at the appeal site would increase biodiversity, this would be limited in scale and does not outweigh the substantial harm arising from the change of use to the character and appearance of the area.
13. The appellant considers that the Council failed to take a positive and proactive approach to decision making. However, the Council's handling of the application is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.

### **Conclusion**

14. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

*T Bennett*

INSPECTOR