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## Appeal Decision

Site visit made on 13 October 2014

**by Ron Boyd BSc (Hons) MICE**

an Inspector appointed by the Secretary of State for Communities and Local Government

**Decision date: 12 November 2014**

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**Appeal Ref: APP/K2610/A/14/2223121**

**Fengate Farm, Fengate, Marsham, Aylsham, Norfolk NR10 5QZ**

- 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 Noble Foods Ltd against the decision of Broadland District Council.
  - The application Ref 20131533, dated 30 October 2013, was refused by notice dated 3 February 2014.
  - The development proposed is described as demolition of existing poultry and ancillary buildings and construction of 36 dwellings with amenity space and allotments.
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### Decision

1. I dismiss the appeal.

### Main Issue

2. The appeal site lies in an area outside the settlement boundary for Marsham. I consider the main issue to be whether there are sufficient material considerations to justify the proposed development notwithstanding Development Plan policy restricting development in such areas.

### Reasons

3. Fengate Farm is within the Rural Policy Area of Broadland District and comprises some 0.57 hectares between Marsham High Street and Fengate. It is outside, but immediately adjacent to, the northern boundary of the village settlement boundary. It was previously used as a poultry unit. That use ceased in 2011. The site, which has some prominence in view of it rising some 3-4m above the adjoining dwellings fronting Fengate to the north east and Old Norwich Road to the east, is now vacant, but a number of disused buildings from the former business remain on the site. The proposed development would be comprise 9 five-bed, 10 four-bed and 11 three-bed market houses with 2 two-bed affordable houses and 4 affordable single bedroom flats.
4. Marsham has few facilities other than a primary school, a church, a pub and the village hall. It is served by a broadly half-hourly bus service along the adjacent A140 which runs between Norwich and Holt. It is defined in Policy 16 of the Joint Core Strategy for Broadland, Norwich and South Norfolk, adopted March 2011, with amendments adopted January 2014 (the JCS) as an Other Village, and, as such, only considered appropriate for small infill within the settlement limits. In addition, the supporting text to Policy 16 explains that in

exceptional cases a larger scale of development than that described above may be permitted where it would bring local facilities up to the level of those in a Service Village. Whilst acknowledging that the proposal does not comply with the Development Plan's Other Villages policy the appellants contend that there are a number of material considerations weighing in favour of the proposed development. I consider these below.

5. On the basis of a comparison of Marsham's limited facilities with those of a number of Service Villages the appellants argue that Marsham could just as easily have been classified as a Service Village. Service Villages are defined in the supporting text to JCS Policy 15 as being villages having a good level of services/facilities within them, or, in some cases, with some key services in other nearby settlements to which there is good potential access particularly by foot, cycle or public transport. The text further explains that allocations in Service Villages, whilst envisaged as being within the range of 10-20 dwellings may exceed 20 dwellings where a specific site is identified which can be clearly demonstrated to improve local service provision (or help maintain services under threat) and where it is compatible with the overall strategy.
6. However the appellants' simple comparison of services within villages under general headings does not provide the details likely to have informed the categorisation of the villages. Information such as to the accessibility of key services which may be in contiguous or nearby settlements, or any differentiation between extensive or minimal provision of the individual services such as the nature of food shop or frequency of public transport, has not been submitted.
7. It seems to me that Marsham most accurately meets the description of Other Villages set out in the supporting text to Policy 16 in that its residents are clearly reliant on a larger centre, presumably Aylsham, (classified as a Main Town) some 3 km to the north, to meet their everyday needs, particularly as there is no shop within the village. Whilst the bus service, which, whilst not entering the village does run adjacent to the eastern perimeter of the settlement, is a relevant material consideration, I conclude that, in view of the very limited services within the village, Marsham cannot be considered to be a sustainable location for the proposed development.
8. Notwithstanding the above, the proposed 36 dwelling development is well in excess of the 10-20 dwellings envisaged in the JCS for Service Villages. Whilst noting the criteria for exceptions beyond 20 dwellings I consider that, other than the proposed allotments and play area, it has not been clearly demonstrated how the proposal would improve local service provision. There is no shop to support, and no indication that the village school is under-utilised - indeed the Council's understanding to the contrary has not been disputed by the appellants.
9. As regards compatibility with the overall strategy of the Development Plan the proposal is outside the settlement boundary and thus contrary to Saved Policy GS1 of the Broadland District Local Plan (Replacement) 2006. I consider this Policy, along with the above mentioned JCS Policies 15 and 16, to be consistent with the National Planning Policy Framework (the Framework) in facilitating the management of patterns of growth in order to focus significant development into locations which are or can be made sustainable. I note that following the consultation process for the emerging local plan, completed in April 2014, the

previously adopted settlement boundary for Marsham has been retained, unchanged, in the Site Allocations (DPD) submission document which was submitted earlier this autumn for public examination.

10. In the light of the above I conclude that whether the village is considered as an Other Village or Service Village, the proposal would fail to meet Development Plan requirements. It would neither satisfy the Policy 16 exceptional case requirements nor the Policy 15 criteria for more than 20 dwellings.
11. As to housing need I am satisfied, having regard to the recent Appeal APP/K2610/A/14/2213841, that this should be assessed on the basis of the rural part of Broadland District being a discrete housing market area requiring its own housing land supply assessment. The Council's Annual Monitoring Report 2012/2013 indicated that Broadland's Rural Area had a residential land supply of 9.61 years at December 2013. I therefore conclude that the Council's Policies in respect of the supply of housing in the Rural Area can be considered as up-to-date.
12. However, I note that the Council's Housing Development Manager has advised that there is a need for affordable housing in the village. JCS Policy 4 requires that for developments over 16 dwellings 33% should be affordable, which in this case would be 12 units. On the basis of a submitted Viability Report the appellant has indicated a willingness to provide 7 units and a draft 'Heads of Terms' for an Agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 was submitted with the Appeal. This is insufficient to secure such provision. However, were the proposal to be otherwise acceptable, affordable housing could be secured by a planning condition and I consider the potential of the proposal to deliver some affordable housing to be a relevant material consideration.
13. The appellants contend that the previous use of the site included significant Use Class B1 and B2 elements and that the site should be considered as previously-developed 'brownfield' land. The re-use of such land, with the aim of making overall effective use of land, is a core planning principle highlighted in the Framework. However, the Council advises that there are no records of past permissions for any B1, B2 or B8 uses at the site and that the authorised use is agricultural.
14. I note that the appellants were considering applying for a Certificate of Lawfulness to demonstrate their case but I have not been advised of any such application having been made. Whilst I note the statutory declaration submitted by the appellants' former Group Technical Director I am unable, on the basis of the information before me, to conclude other than that the site is agricultural land and that its future use for any other purpose would require planning permission.
15. I have considered the points raised by the appellants in support of the scheme. Whilst there is clearly potential for improving the present abandoned appearance of the site the unimaginative estate proposed would do little to enhance the local environment or weigh in favour of the development. No evidence that the suggested footpath link from the site to the High Street could be delivered has been submitted. The proposal for allotments and public open space with a play area would require a S 106 obligation to secure provision and future maintenance arrangements.

16. Whilst I accept that screening to mitigate potential overlooking of adjoining development could be achieved through landscaping and a planning condition, I am not satisfied that the changes sought by the Highway Authority, which include some realignment of the internal estate roads in the interests of road safety, could similarly be secured. I have already referred to the bus service between Marsham and Aylsham and the intention to provide some affordable housing. Overall, I conclude that there are insufficient material considerations to outweigh the conflict with the Development Plan.
17. I have taken into account all the other matters raised in the evidence but have found nothing sufficient to outweigh my conclusions set out above which have led to my decision on this appeal. For the reasons given above I conclude that the appeal should fail

*R.T.Boyd*

Inspector

Richborough Estates