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# Appeal Decision

Site visit made on 27 October 2010

**by R Ogier BA MRTPI**

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

**Decision date: 4 November 2010**

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**Appeal Ref: APP/F2605/A/10/2128020**

**Land at 125 Shipdham Road, Dereham, Norfolk NR19 1NN**

- 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 Messrs J Smith against the decision of Breckland District Council.
  - The application Ref 3PL/2009/1030/F dated 3 November 2009, was refused by notice dated 8 January 2010.
  - The development proposed is erection of a two bedroom bungalow.
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## Decision

1. I dismiss the appeal.

## Main Issue

2. The main issue in this appeal is the effect of the proposed bungalow on the visual character of its surroundings, particularly in terms of the street scene and protected trees on the appeal site.

## Reasons

3. The appeal site is part of the plot of one of a group of four bungalows nearing completion. The proposed bungalow would be inserted between two bungalows at the head of what will become a cul-de-sac, with access from Shipdham Road at the side of no. 125. I saw on my site visit that the bungalows in the group are set out in a relatively spacious layout, each plot having a single or double attached or detached garage. The proposed bungalow would be set back further than either of the neighbouring bungalows, and in my perception would appear unduly cramped in relation to them when viewed from the cul-de-sac turning head, to the detriment of the street scene there.
4. Most of the trees on the appeal site are protected under the Norfolk (Breckland District) (Dereham) Tree Preservation Order 2003 No. 20 (TPO). None of what the appellant's submitted tree survey denotes as trees T5, T6 and T7 (TPO references T3, T5 and T9) which would be lost for the proposed development could be described as of prime quality or in excellent health. The apple tree T5 (TPO T3) has fruited well this season but is heavily overgrown with ivy. Pear tree T6 (TPO T5) is slight in stature and T7 (TPO T9) misshapen, with a leaning gait. Of the trees to be retained T8-T13 (TPO T1, T4 and T6-T8), T8 (TPO T8) appeared not to be in very good health.
5. However, the main purpose for which the TPO was made, for the value of the tree stock as a fruit orchard typical of the interwar period, should be taken into account. The 'old' orchard was assessed by the East of England Apples &

Orchards Project as important in biodiversity terms. I saw that the area in which the retained trees grow was relatively dark from shading on what was otherwise a fine day. That area would become the rear and side garden of the proposed bungalow. I agree with the Council that applications to fell or significantly lop one or more of those trees could reasonably be forthcoming from the occupiers of the new bungalow seeking to reduce shade in their garden and to improve the quality of light through the windows of their home. The case for carrying out such works might in those circumstances have merit and therefore be difficult to refuse. The outcome could be a significant reduction in the number or size of the protected trees, with a consequent devaluation of the protected asset.

6. In all these circumstances I conclude that the proposed bungalow would result in material harm to its immediate surroundings, both by its cramped appearance in the street scene and by its actual and potential impact on the protected fruit trees and their habitat. It follows that the appeal proposal would not accord with Policies CP10, CP11, DC1(e) and DC16 of the adopted Core Strategy and Development Control Policies Development Plan Document for Breckland District (CS&DCP) nor with the design objectives of PPS1 *Delivering Sustainable Development* and PPS3 *Housing*.
7. CS&DCP Policy DC11 requires proportionate contributions in relation to all new residential development towards the provision of outdoor playing space, although the policy had not been adopted at the time of submission of the subject planning application. The appellant is not sure that this requirement should apply to a single unit likely to be attractive to elderly persons, yet to my mind the requirements of the policy are clear, and there is in any event no assurance that the unit would be so occupied. Whilst the appellant might be willing to make a contribution, the absence of any formal commitment to an obligation in this regard weighs against the appeal proposal under present circumstances.
8. I have considered all other matters raised in the written representations, but none outweighs the considerations which lead to my conclusion on the main issue, on which basis the appeal does not succeed.

*Richard Ogier*

Inspector