

DEVELOPMENT COMMITTEE

Minutes of the meeting of the Development Committee held on Thursday, 23 February 2023 in the Council Chamber - Council Offices at 9.30 am

Committee Members Present:

Cllr P Heinrich (Chairman)	Cllr A Brown
Cllr P Fisher	Cllr A Fitch-Tillett
Cllr V Holliday	Cllr R Kershaw
Cllr N Lloyd	Cllr N Pearce
Cllr M Taylor	Cllr J Toye
Cllr L Withington	

Substitute Members Present:

Cllr H Blathwayt
Cllr S Bütikofer

Officers in Attendance:

- Assistant Director –Planning (ADP)]
- Development Manager (DM)
- Development Management Team Leader (DMTL)
- Senior Planning Officer (SPO)
- Housing Strategy and Delivery Manager (HSDM)
- Principle Lawyer (PL)
- Democratic Services Officer – Regulatory (DSO)

Also in attendance:

- Cllr W Fredericks
- Cllr G Perry-Warnes

110 TO RECEIVE APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllr P Grove Jones (Chairman), Cllr G Mancini Boyle and Cllr A Varley.

111 SUBSTITUTES

Cllr H Blathwayt was present as a substitute for Cllr A Varley, with Cllr S Bütikofer present as a substitute for Cllr P Grove-Jones. Cllr P Heinrich (Vice-Chairman) deputised as Chairman for the meeting.

112 MINUTES

The minutes of the Development Committee meetings held Thursday 26th January 2023 and Thursday 9th February 2023 were approved as a correct record subject to corrections on minor typographical corrections.

113 ITEMS OF URGENT BUSINESS

None.

114 DECLARATIONS OF INTEREST

The Chairman declared a non-pecuniary interest in Agenda Item 9, planning application PF/22/1337, he is a member of the Caravan and Motorhome Club. He noted that Members had been in receipt of a lobbying letter with relation to Agenda

Item 8, application RV/22/0308.

115 HOLT - RV/22/0308 - VARIATION OF CONDITIONS 2 AND 24 OF PLANNING REF: PF/17/1803 TO AMEND PLANS TO REFLECT UPDATED ON-SITE AFFORDABLE HOUSING PROVISION (0%) AND TO UPDATE PREVIOUSLY APPROVED LAND CONTAMINATION REPORT, LAND REAR OF 67 HEMPSTEAD ROAD, HOLT, NORFOLK, FOR HOPKINS HOMES LIMITED

Officers report and presentation:

The DMTL introduced the Officers report and recommendation for approval.

He advised that when the application was submitted in February 2022, the applicant sought to reduce the on-site provision of affordable homes from the approved 23 units to 18 comprised of 10 S106 secure dwellings with the intention that the applicant obtain grant funding for the further 8 dwellings. However, In October 2022, the applicant submitted revised proposals which sought to reduce the provision of on-site affordable housing to zero. The applicant highlighted the increase in costs between their two viability assessments confirming that the total increase in the overall design and construction cost was £1.6 million over the intervening period, £436,000 of this figure related to ongoing inflation in base material costs, and a further £760,000 due to increased abnormal costs. The abnormal costs included higher earth work, associated servicing, and foundation costs. The other increases related to other non-base material, labour costs, design and contingency costs amongst others.

Overall, the applicant argued that proposed scheme would result in a £1.5 million viability deficit, details of which were set out in the applicant's viability assessment.

As part of the consideration of the proposal, the Councils Housing and Planning teams had instructed SMB property consultancy (a qualified viability assessor) to undertake a review of the applicant's viability case. SMB agreed with the applicant's assessment and that it supplied sufficient evidence to demonstrate that the proposed development would not be sufficiently viable to support the delivery of affordable housing. The independent viability assessor recommended that a review mechanism be introduced into any amended new legal agreement to secure payments towards off-site affordable housing provision should the agreed minimum return be improved upon.

In respect of the applicant's proposal to vary condition 24 relating to land contamination, the updated report submitted had been considered by the Environmental Protection Team, who raised no objection subject to conditions.

As set out in the Officer's report, both Local and National Planning Policy along with relevant guidance and case law make clear that viability issues can form a material planning consideration.

The DMTL commented that it was disappointing to receive the proposal to remove all affordable housing from the development, particularly given that the original application was only granted in May 2021 (considered by the Development Committee in December 2020), and would have delivered 23 much needed affordable homes within Holt.

However, the evidence submitted by the applicant had been found sound and for the reasons set out within the report, having due regards to the implications of

paragraph 11 of the NPPF, Officers recommended approval.

Since the publication of the agenda a letter of objection had been received from Duncan Baker MP written in conjunction with Cllrs G Perry-Warnes and E Vardy. It was noted that this letter did not raise any new planning matters which hadn't been covered within the Officers report, however it did highlight the MP and Cllrs disappointment in the application and its impact on Holt.

Following discussions with the PL, the DMTL advised it may be necessary, should the recommendation be agreed, to complete a new S106 agreement for the application rather than a deed of variation to the original, as set out in the original recommendation. He advised that this would not materially change the recommendation, as either way the legal agreement would be required to secure the relevant obligations and requirements.

Finally, a late letter of objection had been received, the contents of which related to matters covered within the Officer's report including the loss of affordable housing and the applicant's financial position.

Public Speakers:

Maggie Prior – Holt Town Council

Members questions and debate

- i. The Local Member – Cllr G Perry-Warnes – expressed her strong disappointment and opposition to the application and Officers recommendation for approval.

Cllr G Perry-Warnes noted that when permission for the development of 52 homes was granted, the provision of 23 affordable homes was a crucial element of the decision to approve. Holt has plenty of market homes, but there is an identified need for affordable housing to serve the needs of Holt families to live and work in their hometown.

The Local Member argued whether the original permission would have been approved without the affordable housing, and considered that the requested variation of the condition, if approved, would mean a new planning permission is effectively granted, under section 73 of the Town & Country Planning Act, 1990.

Cllr G Perry-Warnes affirmed it is well known that construction comes with a downside risk as well as an upside opportunity, and when such losses occur, they should be retained by the contractor or the scheme should be put on hold until the figures add up. Hopkins Homes since claim that the scheme is not viable with the affordable homes provision, however, no viability assessment had been presented at the time of the initial application, in which case Paragraph 58 of the NPPF assumes that applications are viable. She stated that Holt is considered a High Value District and contended that if this site was considered unviable what this would mean for other areas and proposed developments in North Norfolk.

The Local Member acknowledged the assessment from the independent advisor that the developer would incur a £3.5 million loss unless the affordable homes are built and sold at market prices. However, she affirmed that planning guidance is such that weight given to a viability assessment is a

matter for the decision maker. She asked that the Committee do not give significant weight to the viability assessment to justify Holt losing its affordable housing provision, and further asked for an open book assessment of Hopkins Homes profit margin on this development under paragraph 58 of the NPPF.

Paragraph 11 of the NPPF states that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits. Cllr G Perry-Warnes strongly contended that the impact of the loss of much needed affordable homes on the people of Holt significantly and demonstrably outweighs the benefits of protecting Hopkins Homes' profit margin. North Norfolk has the second highest percentage of second homes in the country, arguably it was not the families of Holt who would be able to afford these market value homes.

The Local Member requested NNDC and Hopkins Homes review their stance, and to wait until the development could be profitably built with the affordable homes provision.

Cllr G Perry-Warnes shared in the level of outrage expressed by residents of Holt that the provision of affordable homes is being treated as an optional extra by Hopkins Homes. She argued that a clear message must be sent to the developer. This is a matter of social justice. It is a fight for fairness. The Local Member implored the Committee to reject the Officers recommendation for approval.

- ii. The Chairman reminded Committee Members that, as with all applications, this application must be considered on its merits within the constraints of planning law, the NPPF, and the Council's own policies, seeking guidance from Officers as necessary on those matters. Should Committee Members consider themselves to be predetermined, rather than predisposed, they must state as such and abstain from voting. If the Committee consider the information before it inadequate to form a reasoned decision, Committee Members should propose a deferral and state the specific reasons as to the additional information required.

The Chairman asked the DM to explain, for the benefit of the Committee and Members of the public observing, how developers and landowners were presumably entitled to a guaranteed profit of around 17.5%.

- iii. The DM acknowledged that matters of viability were difficult for all Local Authorities (LA) because the assessment of viability was not in the Councils gift or control. Rules had been set out by central government and by the Royal Institute of Chartered Surveyors (RICS), with guidance established how LA's should assess viability in planning.

Government had indicated that they would allow developers to expect a return on their developments of between 15-20% profit return. Previously this was based on risk. By government stating in planning practice guidance and via the NPPF that, in effect, developers should expect the aforementioned return, it sets out the basis for developers to undertake their assessments. If assessments demonstrated that developers would not get this return, developers to go back to the LA to argue their development is unviable and that they should not be required no contribute to specified conditions. Further, the RICS guidance sets out the parameters for the information

required as part of a financial viability assessment. Notably, the Planning Inspectorate followed RICS guidance and rules set out by central government when applications went to appeal.

He affirmed that Officers were not comfortable with the proposed loss of affordable housing. However, Planning Officers were constrained to work within the rules set out by central government. Failure to accord with these rules would run the risk of losing at appeal and having a cost award made against the LA.

- iv. Cllr W Fredericks - Portfolio Holder for Housing & Benefits – echoed the comments of the Local Member and Town Council, and expressed her support for the retention of the previously approved planning permission, rejecting the Officers recommendation for approval.

She noted that the applicant applied for the original scheme in 2017 and in 2020 advised they were confident they could build out the scheme, including the affordable housing provision. Then, 18 months ago, the applicant advised NNDC that the scheme was unviable with the affordable housing and subsequently approached the Council some 15 times to appeal against planning conditions on the original application.

The applicant's current request came at a time when costs of materials had increased significantly, interest rates were higher, and when the housing market had stalled. Cllr W Fredericks questioned why the applicant, who 18 months ago considered their scheme unviable, had watched cost of supply's rise until they could apply again and reflected this was a tactic to ensure that their case for zero affordable housing couldn't be denied. By allowing the site to be made up entirely of market-price properties, it would give the developer a 100% increase in profit, at the expense of affordable homes.

Further, such market-price homes would be an average of £300,000, serving no benefit to local people who would be priced out. Cllr W Fredericks argued that the residents of North Norfolk were being denied the opportunity to live and work in their own communities. House prices were unaffordable within the district with wages to price of homes being 1 to 10 ratio. She noted mortgage providers would only lend 4x annual salary, not 10.

Cllr W Fredericks contended that developers had a history of renegeing on affordable homes quotas, and the offer of an uplift clause was useless. Land would need to be acquired and houses built, even £1 million brought through uplift would to equate to the loss of the affordable homes for local need.

Cllr W Fredericks stated that North Norfolk had a housing and cost of living crisis, caused by greed, not need, and that she would rather see the houses not built at all if it served no benefit to the communities of North Norfolk. The residents moving into these properties would rely on services which would be severally impacted by lack of workers, due to employees being unable to live and work in their communities. She argued that North Norfolk and its residents should not be taken advantage of by greedy developers. Additionally, she questioned why there had been no negotiation regarding the S106 contribution to reduce the cost of building affordable homes.

Cllr W Fredericks concluded by stating that at present, there were 75 registered homeless households in North Norfolk with the majority in bed and

breakfast accommodation with an average wait of 18 months, 550 households (not individuals) on the Councils urgent housing list, and over 2500 households (not individuals) on the Councils housing list. She affirmed the application would not have been built without the affordable homes provision and the developer needed to reflect on their actions.

- v. Cllr R Kershaw agreed with the representations made by the Local Member and Holt Town Council, and expressed an interest in seeing the MP's letter of objection. Having studied the Officer's report and documentation provided he remained unconvinced by the viability report. Further, he contended these were experienced developers who were fully aware that the site had been a former scrap yard and that they had either overpaid for the land or miscalculated the building costs.

He questioned if market-priced houses were needed in Holt, and reflected that they would likely be sold off to people retiring from outside the area. North Norfolk already has the oldest population in England and Wales, and eventually these individuals would require services including the serving of their property or carers.

Cllr R Kershaw stated it was immoral to have no affordable housing provision on the site, and expressed his disappointment that the developer did not register to speak to the Committee, which amounted to a desecration of duty.

Whilst understanding the legal implications, he commented that he would be unable to support the application.

- vi. Cllr N Pearce stated he was very upset at the loss of affordable homes, though acknowledged the Officer's advice that there was a legal precedent.

He considered the merits in developing the site but contended that Holt was great danger of becoming the next Well-next-the-sea, which had been featured in the national news for its lack of affordability for local residents. He felt it essential for there to be Local housing to meet local people's requirements.

Having listening to the arguments presented, Cllr N Pearce proposed deferment of the application, to allow an extension of time in which it was hoped that cost of materials and interest rates would come down, and the scheme be viable with the affordable homes. He considered this the most reasonable outcome which would serve to benefit both the Council and the developer.

- vii. The Chairman asked Cllr N Pearce to clarify the grounds for his proposal for deferral.
- viii. Cllr N Pearce stated the deferment was a matter of common sense and would allow for the developer to reappraise their appraisal in conjunction with the LA which it was hoped would see the retention of affordable homes on the site. He noted that a refusal of the proposal would go against the legal framework, to support the proposal would go against the Councils principles.
- ix. The ADP offered advice to the Committee, and acknowledged the disappointment expressed by Members in determining the application. He advised that the planning application had an extension of time period agreed

to 3rd March. Further, he was in receipt of an email, sent that morning, from the Head of Planning at Hopkins Homes, who had expressed a wish that a determination be made by the Committee at the meeting rather than a deferral.

The ADP highlighted that if deferment was agreed by the Committee, Officers would need to negotiate an extension of time to cover any period to negotiate, discuss and present to Members any revised proposals. If this were to occur the Council would be at risk of an appeal for non-determination. He could not offer assurances that Hopkins Homes would, or would not agree to an extension of time, only that they had indicated a preference in their email that a decision be reached at the meeting. The ADP offered his considered professional opinion that unless an extension of time were agreed, the Council would be at risk of an appeal against non-determination which would take decision making away from the Committee.

- x. The Chairman asked the HSDM to explain the rationale in the viability studies and potential of the proposed uplift clause.
- xi. The HSDM advised that the viability studies were undertaken where an application (in this instance a variation) was below policy compliance. In response to earlier comments, she clarified that a viability study had not been undertaken on the original application, as this was policy compliance, and it was not a matter of course where a proposal was policy compliant in affordable housing and S106 contributions.

With respect of the current application, the Council had employed an independent viability expert, whose services the Council had used for some 8 years and whose previous advice had resulted in increased levels of affordable housing or uplift clauses, on a number of other applications. The independent expert had received Hopkin Homes figures, though crucially did not take these figures as a matter of truth, rather he used industry comparisons and other benchmark information to undertake a separate viability assessment looking at the value of the development in terms of sales and the costs of the development. In his assessments, he does not take into account the cost the developer paid for the land, instead looking at what a sensible benchmark land value figure would be. The independent expert broadly supported the conclusions reached by Hopkins Homes in that the scheme was not viable with the sales values not covering the costs including profit and the land value.

In terms of the uplift clause, the HSDM advised this was something which had previously be utilised by the Council including twice before with Hopkins Homes developments in North Walsham and elsewhere in Holt. Uplift clauses had been included within the S106 agreement to stipulate that should the position improve, and profits be better than anticipated (based on information at time of determination), then a share of those profits should be returned to the LA in the form of commuted sums. To date Hopkins Homes had paid NNDC £1.4 million from these profits, £690,000 from North Walsham and £720,000 from a previous development in Holt. The HSDM stated they can be a useful mechanism though agreed with Cllr W Fredericks that they were less valuable than affordable homes.

- xii. The Chairman asked Cllr N Pearce to re-clarify the reasons for deferral.

- xiii. Cllr N Pearce sought legal advice, and considered a decision for or against the application came with risks. He stated he was exceedingly concerned that the needs of residents would not be met without affordable homes.
- xiv. The Chairman asked the DM to relay the reasons for deferral raised by Cllr N Pearce and asked whether they could be considered legitimate in planning terms.
- xv. The DM advised that it was a suggestion from Cllr N Pearce that the market conditions have changed such that if the scheme was reappraised different figures regarding affordable housing provision may be reached. He advised that whilst he was not a financial appraiser, the scale of difference between the viability of the project from the original to the proposed variation was large, and even if conditions were to improve, it would be exceedingly unlikely that they improve such that the 15 – 20% profit return, which developers would expect as established in RICS and central government guidance, be met. The DM cautioned that a reappraisal would not change the affordable housing provision in a years' time.
- xvi. The PL endorsed the DM's comments and stated that the Housing development must accord with Local Plan policies, including policy H02 of the NNDC core strategy when specifies the amount of affordable housing required, unless special circumstances dictate variance. Such special circumstances may include a lack of financial viability, as argued by the developer in this instance.

The PL detailed a case in which Islington Council were backed by a Planning Inspector in refusing an application removing affordable homes provision. However, on that occasion the financial viability assessment was disputed. With regards to the application in question, she acknowledged that advice received from the independent expert for the Council broadly supported the viability assessment put forward by the developer, therefore it would be very difficult to raise concerns about the viability assessment.

In response to questions from the Chairman about the legal position of the original S106 agreement, the PL advised that a Council were at liberty to negotiate separate terms on a S106 agreement at any time. The aforementioned S106 agreement had been entered into in May 2021, so it contained obligations that would to bite for another 3 years, after which time the developer could appeal on the basis that the terms were no longer reasonable. She commented that this could stymie development for 3 years, and would not prevent the developer from appealing under the S73 application.

- xvii. Cllr A Brown seconded the proposal for deferral. He reflected, as a member of an adjoining ward to Holt, that he was well aware of the housing need. Separately as the Portfolio holder for Planning and enforcement, he supported the contents of the Local Plan and the Council according with the contents of the Local Plan.

Cllr A Brown expressed his concern that the main driver for the change in financial circumstances seemed to be the additional cost to remediate the on-site contamination from the prior scrap yard, and was unsighted if such issues extended into Heath Farm, which had also been developed, noting that scheme had delivered 23% affordable homes.

He contended that Hopkins Homes had demonstrated a pattern of behaviour on other sites of receiving approval for applications with affordable homes included only for these to be varied at a later date. Such actions would in any other circumstance amount to a breach of contract, however developers were permitted by central government to apply for variations on viability grounds.

He considered that more evidence should be provided to establish what in the 9 month period between consent being granted and the S106 agreement signed, had so rapidly changed to demonstrate serious financial problems. Conversely, healthy profits for Hopkins Homes could be viewed on company's house, and they further state that 'the company takes its responsibility seriously when it comes to helping local communities', something he considered ironic.

Whilst seconding the proposal for deferment, he expressed concerns for the reasons detailed by Cllr N Pearce and acknowledged the advice provided by the ADP that the Council may be at risk of appeal for non-determination if deferment was agreed. He sought clarity as to the difference in an appeal for non-determination as opposed to an appeal for refusal, and what the financial implications may be for the Council.

- xviii. The ADP clarified that the email he referred to the Committee stated a preference from the developer, to which he had provided his professional opinion as to the balance of potential risk that would arise given the extension of time running only till 3rd March. He advised that he was unable to confirm what decision the developer may arrive at, but that he would speak with the developer and if the Committee agreed for deferment, that he would be requesting an extension of time.

If the Council were to determine to refuse the application, the usual grounds of engagement would apply. The Committee would need to be reasonable in its consideration; give due weight to all other aspects committed to under the S106 agreement, in excess of £300,000. Further there were questions surrounding the Councils 5 year Housing Land supply (HLS) and the benefit of delivering new homes under a planning permission must carry weight. It was in the gift of the Committee, as decision maker, if having reasonably considered all of the material considerations following debate, Members decide there to be justified reason for deferral or refusal.

- xix. The DM confirmed that the Councils 5 year HLS was a significant material change from when the application was originally considered in December 2020. Paragraph 11 D2 of the NPPF details permission should be granted for sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF when taken as a whole. S106 contributions were part of making developments acceptable, it was therefore a judgement for the Committee whether the loss of affordable housing significantly and demonstrably outweigh the benefits. It was important to identify the adverse impacts and articulate those in the decision.

- xx. The Chairman considered there to be no reason to question the quality and validity of the assessment of the independent viability assessor. He questioned the nature of the contamination, noting the developer had owned

the land for several years and should therefore have been aware of the level of contamination.

- xxi. Cllr J Toye thanked Officers for their report and advice given, acknowledging this was a difficult position for Officers to be in. He considered, as an aside, that perhaps viability assessments should be considered on applications which were policy compliant.

He noted a feature within all planning applications was the section 'Human Rights' implications. He reflected on the representations of the Local Member, Holt Town Council and anecdotal remarks of residents working double shifts due to a lack of staff, with employees having to travel from Norwich to North Norfolk as they were unable to live and work in their community. Further noting Cllr W Fredericks remarks about the housing waiting list, he argued this development would have represented 10% of the households listed in band one. A significant number of people which would as a consequence be denied their right to a home.

With reference to Article 8 of the Human Rights Act 'Respect for your private and family life', Cllr J Toye recited an excerpt from the Equality and Human Rights Commission 'The concept of private life also covers your right to develop your personal identity and to forge friendships and other relationships. This includes a right to participate in essential economic, social, cultural and leisure activities. In some circumstances, public authorities may need to help you enjoy your right to a private life, including your ability to participate in society.' He questioned if the LA were truly allowing its residents to participate in society, and fulfilling its obligations by keeping individuals in bed and breakfasts, in shared accommodation, to live with families and sofa surf.

Cllr J Toye stated a deferment was the minimum of what he would find acceptable, and affirmed that he could not support the application. If a deferment was agreed upon, part of the reason should be to understand if the LA was compliant with Human Rights.

- xxii. Cllr A Brown considered Nutrient Neutrality had stymied the Council's delivery of its 5 year HLS, an extraneous circumstance nearing resolution.
- xxiii. The DM agreed that Nutrient Neutrality was having a significant impact on housing delivery, but was not the only factor affecting the Council's 5 year HSL.
- xxiv. Cllr R Kershaw expressed his heightened concern upon hearing the email from Hopkins Homes relayed by the ADP, which he considered to be a threat in so far as the developer had timed their communication knowing the date and time of Development Committee meeting. He supported the proposal for deferment though acknowledged the associated risks.
- xxv. Cllr N Lloyd agreed with Cllr R Kershaw's remarks and asked Officers, should the committee be minded to agree deferment resulting in a decision not being reached before the 3rd March extension of time deadline, what would be the consequence for the application.
- xxvi. The DM advised, should the Committee agree with deferment, that Officers would engage with the developer to re-open negotiations. If the developer

was unwilling to permit an extension of time, they would reserve the right to appeal on the grounds of non-determination. This would not automatically provide the appellant permission, rather it would take the decision out of the hands of the LA and into the Planning Inspectorate. He cautioned that an appeal would move the problem a year down the line.

It was noted that the developer had already commenced works on site, and there would be some issue with them progressing with works with a legal agreement in place which required certain conditions be met.

The DM advised should Members agreed on a deferment only for the developer to refuse permitting an extension of time that the Committee could then agree to re-discuss the application and come to a determination at a later meeting for or against. It would be challenging for the applicant to argue that the Council had behaved unreasonably when the Council had tried to engage into a discussion with them and negotiate a solution in an amicable way.

- xxvii. The PL acknowledged this was a difficult situation, and it was disappointing that the applicant was proposing a drop from 45% affordable homes to 0. She asked, if there was an opportunity to arrange for an extra-ordinary meeting before the 3rd March should a deferment be agreed and an extension of time rejected.
- xxviii. The ADP advised should an appeal be launched for non-determination and presented before a Planning Inspector, decision-making would be removed from local democracy. He understood Members concerns and the dissatisfaction from members of the local community.
- xxix. Cllr L Withington asked the HSDM about the viability assessment and whether any affordable housing provision would be acceptable, i.e 6 or 7. Secondly she asked, if an appeal situation were to arise would weight be given by the Planning Inspector as a material consideration that the former application had only been approved in the first instance with the affordable housing provision.
- xxx. The HSDM advised that in normal circumstances the independent viability assessor would be charged to look at what would be policy complaint possible, and whether what the applicant was seeking was reasonable. In this instance the viability assessment argued the scheme wasn't viable even with the total removal of the affordable housing provision. It would have been pointless to look into ranges when the provision of 0 affordable homes was considered unviable.
- xxxi. The DM noted Cllr L Withington's question and the premise that the Committee may have made a different decision had the affordable housing contribution been removed. Critically, since the former application had been approved the Council no longer had a 5 year HSL which affected the planning balance. If the Council had been without the 5 year HSL at the time of making the original determination, Officers may have argued for the application of Paragraph 11 D of the NPPF and given weight to the development. He argued that factors change over time and it was for Members to decide how they apportion weight to material considerations.
- xxxii. The PL endorsed comments from the DM and acknowledged the site was

within a sustainable location and that there were other extraneous benefits in the S106 agreement. It was a difficult balance with the 5 year HSL mitigating against the prevention of developments in a sustainable location. However it was appreciated the fundamental disappointment of the substantial drop in affordable housing provision.

- xxiii. The DM advised that the S106 obligations totalled over £338,000 comprised of the following, £17,500 – Healthcare contribution, £20,000 – County wildlife site management, £25,000 - Offsite allotments, £52,000 - Parks and Informal Open space, £17,500 – Coastal Hopper Bus contribution £154,000 – Education, £4,000 – Library, £16,951 Public rights of way and green infrastructure.
- xxiv. Cllr S Bütikofer considered that a deferment would simply kick the can down the road, and argued that the Council should be bold and brave in refusing the application. Whilst the Council did not have a 5 year HLS, she contended this was a policy forced onto the LA and not as a consequence of the actions of the Council or of residents.

She advised at the time when the prior application had been approved, she had been the Local Member for Holt and observed the Development Committee's debate. Concerns had been raised about the access onto Hempstead Road and the impact it would have on neighbouring residents however the Committee had concluded benefits brought from the 23 affordable homes outweighed the negative impacts.

Cllr S Bütikofer affirmed that that she would be supportive of deferment over approval, but expressed her preference for refusal. She was critical of the uplift clause and questioned whether the money would benefit Holt and its residents because of the costs of the land in this area of the district. Further, she firmly agreed with the views expressed by Cllr W Fredericks of the necessity for people to be able to live and work in their communities.

- xxv. Cllr V Holliday affirmed that as an ex-GP for Holt she was very familiar with the town and its desperate need for affordable housing. The town had changed in nature over the last 60 years with large houses filled with second home owners or those who had moved into the area, leaving local residents without somewhere to live.

She argued that the deferment was only worth doing if something positive could be achieved. In this instance she did not believe the development would be beneficial unless half the initially proposed affordable houses were delivered. Cllr V Holliday expressed her preference for refusal over deferment.

- xxvi. The DM commented, should Members decide upon deferral and the developer in negotiation with the Council maintain that they cannot viably build any affordable homes, that there remained money collected through the uplift clause from the other Hopkins Homes development in Holt. This money needed to be spent in Holt to deliver affordable housing. He reflected it may be possible that Officers negotiate with the developer about providing the affordable homes on the site using the collected uplift money, and the possibility that Hopkins Homes may be willing to offer such properties at a lower price than market rate. This solution would enable the delivery of affordable houses on the site using the moneys secured though other

developments via the uplift clause, though it was acknowledged this was an unconventional course of action.

- xxvii. Cllr J Toye asked about the procedural rules should the Committee be minded to refuse. The DSO advised that Members were presently debating the substantive motion put forward by Cllr N Pearce to defer consideration of the application, this should be voted upon or withdrawn before moving on to other potential motions.
- xxviii. The GL advised that the reasons for deferment needed to be made clear, whether it be a reappraisal or re-assessment of the figures provided or request for additional information which may better inform the decision maker of the change in circumstances between December 2020, June 2021 (when the S106 was signed) and now. He advised it would not be appropriate at this stage to discuss reasons for refusal, though noted Member's unhappiness with the application. A recommendation for refusal would need to evidence the specific factors in the developer's financial viability assessment appraisal which Members disagreed with.
- xxix. Cllr R Kershaw commented that Nutrient Neutrality was a temporary issue, and contended that a deferral to after this was mitigated against would place the LA in a better position with its 5 year HLS. Further, he asked the impact of the new Local Plan which may result in 4 year HSL.
- xl. The DM advised that the NPPF and Levelling Up bill had yet to ratify 4 year HSL, further it was a matter of debate if the Council had a 4 year HLS. Further, he queried whether Nutrient Neutrality was the sole factor as to why the Council did not have a 5 year HLS.
- xli. Cllr M Taylor added his support for Members representations and expressed his preference for refusal over deferral. He stated that Hopkins Homes were treating the people of Holt with utter contempt and the way in which they had conducted themselves was wrong. He argued that the developer should be sent a message that this would not be tolerated by the Council. Cllr M Taylor reflected that, at 23, it was becoming increasingly unlikely that he would be able to afford a home in the district he lived, worked and served due to the affordability gap, and urged that more be done to ensure the delivery of affordable housing.
- xlii. Cllr S Bütikofer sought clarity for the reasons for deferral.
- xlili. The Chairman asked Cllr N Pearce for the reasons, grounded in planning terms, for his proposal to defer.
- xliv. Cllr N Pearce stated his proposal for deferment was to enable negotiation with the developer about the provision of low cost housing, with a view that some if not all of the initial scheme could be delivered. He hoped as the developer had signed a S106 agreement which would be binding for three years, this would allow a grace period for negotiations.
- xlv. The DM advised that the Independent viability assessor had reviewed the figures and formed his own assumptions that the scheme was not viable, to repeat this exercise would be of little benefit. He reiterated his earlier comments, should the developer continue to argue that the scheme was unviable, that there may be other options to aid in the delivery of affordable

housing on the site. If a solution could be achieved which would see the erection of affordable homes on the site, using money obtained through uplift clauses on other Holt developments, this may be a way of delivering public benefit.

- xlvi. The ADP suggested as this was a complex proposal which had been subject to debate, that it may be helpful to adjourn the meeting to enable the proposer and seconder to discuss the precise terms for the deferral, and to clearly articulate those after the adjournment for the sake of clarity.
- xlvii. The Chairman thanked the ADP for his suggestion and agreed that it was important that the reasons for deferral be made explicit.
- xlviii. The PL noted discussions had considered re-routing some of the money from S106 agreements from other areas in the District to Holt, provided no suitable adjoining sites were available. She considered this would be difficult if money was earmarked for a certain town or area, but not impossible to achieve.
- xlix. Cllr S Bütikofer challenged how this course of action could be justified to the relevant communities.
 - I. The HSDM clarified that there was £720,000 of S106 commuted sums for affordable housing from the previous Hopkins Homes development in Holt which could be used in Holt.

The meeting was adjourned at 11.02am and resumed at 11.17am.

- li. Following the adjournment, The Chairman asked Cllr N Pearce to affirm the reasons for his proposal.
- lii. Cllr N Pearce stated the reason for deferral would be to enable negotiations with the developer to look at the mix of housing.
- liii. The ADP advised that he had received a new email and been informed by the representative for Hopkins Homes that they would be willing to support a deferral to enable further discussion.
- liv. Cllr A Brown added as seconder that the deferral would leave the door open for negotiations and to receive more information.
- lv. The DM stated, with reference to the mix of housing, that it was important to understand what it was in the mix that Members were looking to achieve. The present mix was based on the original proposal, and had a housing mix linked to the affordable housing it was going to provide which would help meet local needs. In changing the mix there ran the risk that it would not meet local need and conversely extend the unaffordability gap.
- lvi. The HSDM noted that the original 23 affordable homes were based on the Councils needs analysis, and possibly not a mix which the developer had a preference for if they been developing for the open market. She highlighted that the Council often preferred one or two bedrooms, whereas developers would likely seek to develop larger family homes with greater profit margin. In altering the mix, there was a possibility to develop something more viable though was not likely to deliver the 45% affordable homes. There would then

remain the option for the developer and the registered housing provider to seek grant funding for some of those units.

IT WAS RESOLVED by 6 votes for, 5 against and 2 abstentions

That that Planning Application RV/22/0808 be DEFERRED to enable negotiations with the developer about the mix of housing.

116 WEST RUNTON - PF/22/1337 - REDEVELOPMENT OF SITE TO INCLUDE PITCH SURFACE IMPROVEMENTS, CREATION OF SERVICED PITCHES, ERECTION OF SITE MANAGERS BATHROOM/UTILITY PODS, CREATION OF MULTI-USE GAMES AREA (MUGA) AND CHILDREN'S PLAY AREA WITH ASSOCIATED FENCING, UPGRADING TWO MOTOR VAN WASTE AND ONE SERVICE POINT(S) AND EXTENSION OF INTERNAL ROAD NETWORK AT INCLEBORO FIELDS CARAVAN CLUB SITE, STATION CLOSE, WEST RUNTON, CROMER

Officers report and presentation:

The SPO introduced the Officers report and recommendation for approval subject to conditions. He outlined that the site comprised of 21 acres with 241 freehold pitches, mostly grass though a small number were fully serviced and hard standing. The site, situated in the countryside, resided in the AONB, the Wooded Glacial Ridge and Coastal Shelf Landscape Character Area as designated with the North Norfolk Landscape Character Assessment, the Undeveloped Coast as designated within the adopted North Norfolk Core Strategy, Incleborough Hill Country Wildlife site and West Runton conservation area.

The SPO noted the sites location, its relationship with its surrounding landscape, access to the site, existing and proposed site plans, location of the proposed warden bathroom and kitchen utility pods, motor van waste points, universal service points, all weather pitches, serviced pitches, premium pitches, non-awning all weather pitches and play area (which would be enclosed).

Members questions and debate

- i. The Local Member – Cllr S Bütikofer – argued against the Officers recommendation and stressed the importance of the Council upholding its responsibilities to the AONB, protecting it from development. This was a large site offering nearly as many pitches as there were houses in the village. The impact of the campsite on local residents remained her primary concern, aside from outlined concerns regarding the AONB, and she noted that the National Trust had raised objections to the application.

Cllr S Bütikofer contended that the entrance to the site was an issue, in spite of Highways written representations, and reflected that on a Saturday between 11am-12pm the road was impassable with caravans queuing up early to try and secure the best pitch. She noted a video available online from a Camping and Caravan club member who commented how difficult access was to the site, and the need to pass over one of the fairways. Further, she stated that residents occupying the bungalows along the access route were essentially trapped in their homes on a Saturday, denying them their rights to enjoy their homes. The Local Member advised she had written to the Caravan and Camping Club on this matter on several occasions

Cllr S Bütikofer raised concerns about the proposals impact on the landscape. Presently, the site was largely grass with pitches able to recover in the winter months. This proposal would introduce chippings that will be seen in the landscape alongside the erection of fences and play equipment.

Whilst the campsite contributes heavily to the local economy, the Local Member argued that the negative impacts to local residents and the environment outweighed the positives. She argued the proposal was contrary to policy EN4 of the NNDC Core Strategy and to policies surrounding the AONB.

- ii. The Chairman asked for clarification whether the proposed hard standing pitches were a replacement/upgrading of existing pitches as opposed to being additions. The SPO confirmed this was the case.

The Chairman further added, as a Camping and Caravan Club member, that the organisation were becoming increasingly vigilant about check in and check out times, though contended this was difficult to enforce. The Local Member argued that a Warden could be employed.

- iii. Cllr A Fitch-Tillett noted, as Vice Chairman of Norfolk Coast Partnership, that the organisation had indicated in the report that they were neither in support or objected to the proposal. As a tourist area, North Norfolk was in many instances a victim of its own success. She advised she was familiar with the site, having stayed some 20 years prior, that it was a lovely site, well sited in its landscape. Cllr A Fitch-Tillett contended that the Camping and Caravan Club were doing a good job looking after the site, providing and improving on excellent facilities, she therefore proposed acceptance of the officers recommendation.
- iv. Cllr R Kershaw seconded the Officers recommendation for approval.
- v. Cllr V Holliday reflected that 240 pitches amounted to 55,000 miles a week, a significant amount of carbon, and echoed the comments from the National Trust and from the Local Member. She sought clarification if the hard standing pitches would be a like for like replacement, or if they would be installed on existing grass pitches.
- vi. The SPO advised that most of the Caravan Park was grass with some hardstanding pitches. Many of the grass pitches had a bollard for electric usage.
- vii. Cllr N Pearce noted the National Trust and Norfolk Wildlife trust objected to the proposal, and one of the Councils core duties was to protect its AONB and heritage. He questioned if the development conflicted with Core Policy.
- viii. The DM advised the application proposed enhancements and developments of the existing site, had the proposal been for the consideration of additional plots this would have amounted to a different planning consideration and assessment. He noted there were consultee representations for and against the proposal, with the Councils Landscape Officer submitting no objection to the scheme. Whilst the Council were charged to manage the impacts of tourism, he contended that the application would enhance the tourism offer and by extension the public benefit.

- ix. Cllr J Toye considered that whilst the application listed a series of improvements, it would result in an intensification of the site. He was critical that additional hard-standing pitches would allow for more usage all year round, which was unsuitable for the AONB and the wildlife which would recover in quieter periods. Further, during the summer occupants tended to use the site for a week or more, taking shorter breaks during other periods of the year. This would result in the disruption of residents over more days.
- x. The DM advised that condition 11 would restrict the times of year the site could operate, which should mitigate concerns about intensification.
- xi. Cllr J Toye contended the proposal may result in additional users being spread across the site and the affect this would have on wildlife.
- xii. The Chairman sought clarity about the concerns regarding intensification of the site. The SPO advised that some, not all of the grass pitches would be upgraded to hard-standing, from the 241 pitches across the site only 53 (1/5) would be upgraded. He advised that the upgrades would be largely concentrated at the entrance of the site.
- xiii. Cllr R Kershaw was satisfied with the conditions proposed and reflected on his role as Portfolio Holder for Sustainable Growth, stating that he was supportive of the tourism and income generated through the proposal. Further, he considered that the application complied with policies SS1 and SS2 of the North Norfolk Core Strategy. Cllr R Kershaw expressed his support for the provision of the motor van waste point, which he argued there was a crucial need for in the area.
- xiv. Cllr S Bütikofer considered that tenting was far less impactful on the environment than caravanning, as the grass pitches would not be used when the weather was too inclement. She noted that there was no provision in the condition for the returning of the pitches to a natural state, and asked that the use of mesh (used at an alternate site) be used in place of the proposed chippings, to allow for the grass to grow through, and for it to be more natural. The Local Member considered this an agreeable condition which had been applied elsewhere. She concluded that whilst this compromise would not defer her fears regarding intensification of the site and the impact of increased motorhomes driving past neighbouring residents, she accepted that there would be benefits brought through the introduction of waste points, and would find the proposal more acceptable if the site were able to return to its wild nature in winter months.
- xv. Cllr V Holliday asked if the waste points would be opened to non-residents. The Chairman advised that they it would not be.
- xvi. Cllr H Blathwayt was encouraged that the Caravan and camping Club had sought planning permission rather than making changes under temporary holiday site permissions. Whilst cynical about some of the application, he advised that he would support the recommendation.
- xvii. The DM advised he would review the list of conditions to check whether there were any specific plans which referred to the surfacing details. He advised that a condition could be added to agree the final surfacing of the pitches, with the intention that they be less conspicuous in the wider environment.

IT WAS RESOLVED by 12 votes for and one against.

That Planning Application PF/22/1337 be APPROVED subject to the conditions detailed in the Officers report, as well as any other conditions considered necessary by the Assistant Director of Planning. Final wording to be delegated to the Assistant Director of Planning.

117 DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE

- i. The DM introduced the Development Management Performance update and noted the upwards trend for performance.
- ii. The PL advised Norfolk County Council and Hethel were signing the S106 agreement for Scottow Enterprise Park. The draft S106 for Crip Maltings in Ryburgh had been circulated and substantially agreed. She advised that the draft S106 Unilateral Undertaking was awaited from applicant's solicitors for application PF/21/3458.
- iii. Cllr R Kershaw thanked the PL for her hard and dogged work regarding the S106 agreement for Scottow Enterprise Park. He argued that the implications of this agreement extended beyond the S106 and resulted in Standard Gas taking the lease on one of the other aircraft units so that the pyrogenesis machinery, built by Swift Air, would bake waste with no emissions and produce hydrogen. As a consequence, the RAF had now funded Swift Air to produce trainer aircraft built from hemp resin, powered by aluminium air batteries made by the hydrogen on the Scottow site. Cllr R Kershaw argued this innovative scheme was a phenomenal story for North Norfolk, unlocked by the PL.
- iv. Cllr N Lloyd asked for clarity over the S106 annexe report and the colour coding. The PL advised that green was for 'in time', red was where negotiations of the S106 agreement were taking a lot of time and the application was at risk of being returned to committee for lack of determination, and orange was between the two.

118 APPEALS SECTION

(a) New Appeals

- i. Noted

(b) Inquiries and Hearings – Progress

- i. Noted

(c) Written Representations Appeals – In Hand

- i. The DM advised with respect of application PU/21/2825, the Inspector had since permitted the appeal. It was noted that the site was located within the Nutrient Neutrality zone and therefore whilst permission had been granted it could not be implemented unless it satisfied and complied with Nutrient Neutrality and GI Rams guidance
- ii. Regarding application PF/22/0727, a decision had also been reached by the Planning Inspectorate who refused the appeal and cited amenity and highways concerns. Cllr A Brown advised that having read the decision,

he noted that nearly every comment raised by the committee had been upheld. Further, the enforcement team had been informed and would be continuing their work regarding the breaches by the landowner

- iii. The DM advised since the publication of the agenda the Inspector had permitted application PF/21/2593.

(d) Appeal Decisions

- i. Noted.

119 EXCLUSION OF PRESS AND PUBLIC

None.

The meeting ended at 12.05 pm.

Chairman