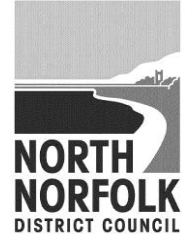


# Development Committee



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26 July 2017

A meeting of the Development Committee will be held in the **Council Chamber** at the Council Offices, Holt Road, Cromer on **Thursday 3 August 2017 at 9.30am.**

Coffee will be available for Members at 9.00am and 11.00am when there will be a short break in the meeting. A break of at least 30 minutes will be taken at 1.00pm if the meeting is still in session.

Any site inspections will take place on **Thursday 24 August 2017.**

## **PUBLIC SPEAKING – TELEPHONE REGISTRATION REQUIRED**

Members of the public who wish to speak on applications are required to register by **9 am on Tuesday 1 August 2017** by telephoning **Customer Services on 01263 516150**. Please read the information on the procedure for public speaking on our website [here](#) or request a copy of "Have Your Say" from Customer Services.

Anyone attending this meeting may take photographs, film or audio-record the proceedings and report on the meeting. Anyone wishing to do so must inform the Chairman. If you are a member of the public and you wish to speak, please be aware that you may be filmed or photographed.

**Emma Denny**  
**Democratic Services Manager**

**To:** Mrs S Arnold, Mr P Butikofer, Mrs A Green, Mrs P Grove-Jones, Mr B Hannah, Mr N Lloyd, Mr N Pearce, Ms M Prior, Mr R Reynolds, Mr P Rice, Mr S Shaw, Mr R Shepherd, Mr B Smith, Mrs V Uprichard

**Substitutes:** Mrs S Butikofer, Mrs A Claussen-Reynolds, Mr N Coppack, Mr T FitzPatrick, Mr V FitzPatrick, Mrs B McGoun, Miss B Palmer, Mr J Punchard, Mr E Seward, Mr D Smith, Mr N Smith, Ms K Ward, Mr G Williams, Mr A Yiasimi

All other Members of the Council for information.  
Members of the Management Team, appropriate Officers, Press and Public



**If you have any special requirements in order to attend this meeting, please let us know in advance**  
If you would like any document in large print, audio, Braille, alternative format or in a different language please contact us

**Heads of Paid Service:** Nick Baker and Steve Blatch  
**Tel** 01263 513811 **Fax** 01263 515042 **Minicom** 01263 516005  
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## AGENDA

**PLEASE NOTE: THE ORDER OF BUSINESS MAY BE CHANGED AT THE DISCRETION OF THE CHAIRMAN**

### PUBLIC BUSINESS

1. CHAIRMAN'S INTRODUCTIONS
2. TO RECEIVE APOLOGIES FOR ABSENCE AND DETAILS OF ANY SUBSTITUTE MEMBER(S)
3. MINUTES

To approve as a correct record the Minutes of a meeting of the Committee held on 6 July 2017.
4. ITEMS OF URGENT BUSINESS (to be taken under items 8 or 10 below)
  - (a) To determine any other items of business which the Chairman decides should be considered as a matter of urgency pursuant to Section 100B(4)(b) of the Local Government Act 1972.
  - (b) To consider any objections received to applications which the Head of Planning was authorised to determine at a previous meeting.
5. ORDER OF BUSINESS
  - (a) To consider any requests to defer determination of an application included in this agenda, so as to save any unnecessary waiting by members of the public attending for such applications.
  - (b) To determine the order of business for the meeting.
6. DECLARATIONS OF INTEREST

Members are asked at this stage to declare any interests that they may have in any of the following items on the agenda. The Code of Conduct for Members requires that declarations include the nature of the interest and whether it is a disclosable pecuniary interest.
7. OFFICERS' REPORT

### ITEMS FOR DECISION

#### PLANNING APPLICATIONS

- (1) HOVETON – PF/17/0696 - **Erection of 25 dwellings with associated roads and landscaping, extension to church graveyard and off-site highways works Church Field for F W Properties**

- (2) **NORTH WALSHAM - PO/17/0549** - Erection of up to 200 dwellings, open space, supporting infrastructure and other associated works (outline application) - revised submission; Land between Aylsham Road and Greens Road, North Walsham for MLN (Land and Properties) Ltd & Simon Rossi & Katherine Beardshaw & Nigel Rossi  
Page 29  
(Appendix 1 - page 64)
- (3) **LESSINGHAM - PF/17/0441** - Erection of extension to side following demolition of garage & utility room; Chy-an-mor, The Street for Mr Lewis  
Page 49
- (4) **OVERSTRAND - PF/17/0222** - Formation of children's play area and erection of play equipment to rear of public house; White Horse, 34 High Street for Mr Walsgrove  
Page 53
- (5) **STIBBARD – TPO 929 (Stibbard) All Saints Church Ref No. TPO/16/925**  
Page 57  
(Appendix 2 - page 82)

*To consider whether to confirm a Tree Preservation Order (TPO) to protect a row of 24 Lime trees and 6 Sycamores at the above site.*

- (6) **DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE – QUARTER 1 2017/18**  
Page 59
- (7) **NEW APPEALS**  
Page 61
- (8) **INQUIRIES AND HEARINGS - PROGRESS**  
Page 61
- (9) **WRITTEN REPRESENTATIONS APPEALS - IN HAND**  
Page 61
- (10) **APPEAL DECISIONS – RESULTS AND SUMMARIES**  
Page 62  
(Appendix 3 - page 87)
- (11) **COURT CASES – PROGRESS AND RESULTS**  
Page 63
8. **ANY OTHER URGENT BUSINESS AT THE DISCRETION OF THE CHAIRMAN AND AS PREVIOUSLY DETERMINED UNDER ITEM 4 ABOVE**
9. **EXCLUSION OF PRESS AND PUBLIC**

To pass the following resolution, if necessary:-

“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A (as amended) to the Act.”

**PRIVATE BUSINESS**

10. **ANY OTHER URGENT EXEMPT BUSINESS AT THE DISCRETION OF THE CHAIRMAN AND AS PREVIOUSLY DETERMINED UNDER ITEM 4 ABOVE**
11. **TO CONSIDER ANY EXEMPT MATTERS ARISING FROM CONSIDERATION OF THE PUBLIC BUSINESS OF THE AGENDA**

**OFFICERS' REPORTS TO  
DEVELOPMENT COMMITTEE - 3 AUGUST 2017**

Each report for decision on this Agenda shows the Officer responsible, the recommendation of the Head of Planning and in the case of private business the paragraph(s) of Schedule 12A to the Local Government Act 1972 under which it is considered exempt. None of the reports have financial, legal or policy implications save where indicated.

PUBLIC BUSINESS - ITEM FOR DECISION

**PLANNING APPLICATIONS**

**Note :-** Recommendations for approval include a standard time limit condition as Condition No.1, unless otherwise stated.

- (1) **HOVETON – PF/17/0696** - **Erection of 25 dwellings with associated roads and landscaping, extension to church graveyard and off-site highways works Church Field for F W Properties**

**Major Development**

**- Target Date: 24 August 2017**

Case Officer: Mr R Parkinson

Full Planning Permission

**RELEVANT CONSTRAINTS**

Within Countryside

Adjacent to existing Settlement Boundary and Residential Area

Within Broads Authority Consultation Area

Adjoins A-road and Unclassified Road

Within Listed Building Grade II\* and Grade II Consultation Areas

Contaminated Land

Adjoining Strategic Flood Risk Assessment Zone 2, 3a and 3b with Climate Change

Includes Controlled Water Risk zone - Medium (Ground Water Pollution)

RELEVANT PLANNING HISTORY for Church Field, Hoveton, NR12 8NY

PLA/19841598

Church farmhouse, Hoveton

Proposed conversion of Church Farm to 2 dwellings

Approved 15/02/1985

PF/16/0731

Land off Horning Road, Hoveton, NR12 8NY

Erection of 31 dwellings plus associated roads, landscaping, public open space and extension to church graveyard

Withdrawn by Applicant 12/04/2017

PF/16/0732

St Johns School, Horning Road, Hoveton, NR12 8NX

Construction of 60-space car park, new accesses and entrance barrier, for use by school and ancillary community uses, with associated landscaping

Withdrawn by Applicant 22/12/2016

PF/16/0733

Unit 29, Stalham Road Industrial Estate, Littlewood Lane, Hoveton, Norwich, NR12 8DZ

Full details of two-storey commercial building for office/light industrial and ancillary storage

use (B1/B8 use classes) with access, parking and landscaping (Building A), with demolition of single-storey industrial building. Outline proposal for 3 no. additional units for office / light industrial / storage / distribution uses (B1/B8 use classes) (Buildings B, C, D), with all matters reserved.

Approved 10.03.2017

### **Associated applications**

When originally submitted, a 31-dwelling proposal (ref PF/16/0731 – the precursor to this application) was accompanied by two other applications: an employment unit development and industrial estate extension at Littlewoods Lane, off Stalham Road, Hoveton (ref PF/16/0733) and a new car park proposal adjacent to Horning Road at the Hoveton Primary School (ref PF/16/0732).

The applicant proposed the car park as a ‘community benefit’ for the school and users of the church of St John, but it encountered difficulties and was withdrawn.

The employment building and industrial estate (ref PF/17/0733) were considered by the Development Committee on 16 February 2017, the report and minutes for which are available at <[http://www2.north-norfolk.gov.uk/apps/committees/default-copy.asp?pathh=Development Committee/16 Feb 2017](http://www2.north-norfolk.gov.uk/apps/committees/default-copy.asp?pathh=Development%20Committee/16%20Feb%202017)>. Development Committee considered the fact that the application was contrary to policy through being development on Countryside land and in making its weighted assessment felt the potential benefits of the proposal generally weighed in favour of approval. Committee acknowledged that although the scheme might have been acceptable on its own merits, its delivery was not guaranteed as the intended occupant could not finance the complete project at that time; nevertheless it was considered suitable as a stand-alone proposal and permission was granted.

The applicant states that a housing development scheme at the Church Fields site is required as “enabling development” necessary for the delivery of the otherwise-unviable employment proposal.

Officers assessed the original residential proposal (PF/16/0731) but felt it raised too many irresolvable concerns to be supported, and recommended the proposal be reconsidered, which resulted in the initial scheme being withdrawn in December 2016. The revised proposal within current application PF/17/0696 includes the following amendments to the original scheme:

- A reduction in overall housing numbers, from 31 to 25;
- The northern site boundary has been moved south by approximately 50m;
- The access to Horning Road has been moved to the eastern edge of the field;
- Retention of agricultural land north of the site, rather than proposed meadow;
- The eastern site boundary has been moved west into the site;
- New woodland planting on the eastern boundary;
- Revised housing types, generally including more bungalows and smaller units;
- Increased proportion of affordable housing;
- Extended network of footpaths around the site.

Notwithstanding the revisions, the applicant, developer and principle landowners behind this proposal remain the same, and the housing development is still proposed as “enabling development” to facilitate delivery of the extant employment permission, the mechanism for which would be an associated legal agreement. By virtue of using obligations on the housing land to deliver the employment land, the two proposals should be considered inextricably linked.

## THE APPLICATION

The proposed development site is south of the A1062 Horning Road, east of the Church of St John, north (to the rear of) properties on Meadow Drive, and north-west of the small arrangement of houses and barns at Church Farmhouse, accessed via private drive off Horning Road. The application proposes an access road, woodland planting, 25 dwellings, graveyard extension and landscaping for the Church, small open space and play area, and access to adjoining woodland for residents.

## REASONS FOR REFERRAL TO COMMITTEE

- 1) Objections from statutory consultees;
- 2) At the request of local Ward councillor, Cllr. N. Dixon in recognition of the proposal being a departure from policy and raising significant local concern but also representing an important economic growth opportunity that deserves full consideration.

The Development Committee will undertake a public site visit on 27<sup>th</sup> July.

## PARISH/TOWN COUNCILS

### Hoveton Parish Council (PC meeting of 03.07.17) - **Objects.**

The Parish Council believes this application should be refused for the following reasons:

1. **Outside of Development Area** – the site is outside the adopted settlement boundary within both the existing Core Strategy and the proposed future allocation land and is contrary to North Norfolk District Council's Local Plan.
2. **Use of Agricultural Land** - objects to the proposed use of agricultural land (class 2 arable land) in this application and to the loss of such land from the parish.
3. **Site Access Safety** - objects to the proposed access from Horning Road, as the access is located at an extremely dangerous point of the road. The Parish Council considers that the current and proposed calming/safety measures are wholly inadequate for this busy road and the proximity of the pedestrian crossing outside St. John's Primary School.
4. **Sewage System** - objects to the proposed use of the existing foul sewer in Meadow Drive; this sewer will have little chance of coping with the effluent from an extra 25 dwellings, is already known to be struggling to cope, and Anglian Water regularly attends this location to deal with foul water sewage problems.
5. **Drainage** - objects to the proposed drainage management system. It is the Parish Council's opinion that the proposed system is wholly inadequate and that it will most likely lead to surface water flooding. SUDS drainage technology is not ideal, and the proposal requires water to be piped across land that has, as yet, had no definitive survey carried out.
6. **Other matters** - Hoveton Parish Council also raises concerns relating to the proposed site's close proximity to two **listed buildings** (the church and the farmhouse); to the likely problem of **light pollution from vehicles** entering the development; and to the likely problem of **noise pollution** and other possible disturbances to existing residents of this area, whether or not measures are put in place to ease these problems.

**Ashmanhaugh Parish Council – No objection – provides comments.**

- Traffic congestion will increase, particularly on Norwich Road and at the Wroxham bridge pinch-point, which already prevent emergency vehicle access.
- The sloping site could give rise to surface water drainage problems.

**Wroxham Parish Council – Objects.**

- The site is not in the Local Plan / is outside the development boundary; and,
- Traffic problems will be exacerbated, particularly through increases on Norwich Road and at the Wroxham bridge pinch-point, which already prevent emergency vehicle access.

**Local Ward Member – Cllr Dixon.**

Based on a site visit in June, Cllr Dixon outlined his principle concerns below, which the applicant and officers have sought to address. These are discussed in further detail in the report. Full comments will be provided in advance of the Committee meeting.

- Surface water – the proposed discharge to the Bure could cause overland flooding or increased groundwater flooding, and the scheme should use soakaways etc for roofs.
- Foul drainage – the scheme could overload the existing sewer which is already prone to becoming blocked, and also receives ingress from surface water, causing floods.
- Play equipment – the proposed location has poor visibility and may cause disturbance to neighbours, and may not be best suited for the needs of the scheme, as opposed to using the costs of provision towards youth activities instead.

**REPRESENTATIONS**

39 letters/emails have been submitted from 31 local residents, in addition to a combined submission on behalf of 'the residents of Meadow Drive'. There are no letters of support for the proposal. The Church of St John has also provided comments.

The objections raise the following concerns:

Principle of residential development:

- This is outside the development boundary.
- Enough infill development has been provided consistently and recently to show that greenfield does not need to be used.
- Countryside should be protected unless not feasible to do so, which this is not proven.
- This is pre-emptive of proper planning through the next Local Plan process.
- Approving this scheme would be contrary to the Planning Inspector's *Sculthorpe* decision that was refused due to the conflict with countryside and heritage protection.
- More housing is to be expected in the next Local Plan, exacerbating local pressures on highways, services and the environment.
- Lack of need for housing in the village.
- There are other sites available for new housing which should be used first.
- Overdevelopment of the village.
- Increased carbon footprint by developing on green fields outside the village boundary.
- There is not enough Affordable Housing provided within the scheme (28% proposed, compared to the 45% required).
- Housing density is too low in comparison to the 30dph required by policy HO7.
- There is no clear demand for more 3, 4, 5-bed housing in Hoveton, when other large schemes are available in Wroxham, Salhouse and Rackheath.

#### Delivery and link to the employment site:

- There is no justification for this to be considered as an enabling development.
- Concerns that the Council has re-established a link between this residential scheme and the commercial development on Littlewood Lane, despite the Planning Committee previously deciding the two applications should be looked at on their own merits.
- It is inappropriate to allow the interests of one commercial company (Benthic Solutions Ltd) to overcome the objections of so many local people and consultees, for just 11 jobs, and employees living outside Hoveton.
- The employment site is only proposed because it is heavily discounted and needs funding through this unsuitable residential scheme.
- The cross-funding for one employer's needs is unfair on other employers who might like to expand / relocate but would have to pay market-rates for such sites.
- The employment land is not the most suitable of many sites that were considered.
- There is questionable benefit from the employment growth proposed.

#### Highways safety:

- Traffic increases will cause congestion and blockages for emergency vehicle access.
- There may be a future vehicular access from Meadow Drive, causing traffic increases.
- Traffic on Horning Road is increasing noise experienced on Waveney Drive.
- Danger to safety of school children walking alongside and across Horning Road.
- Horning Road vehicle speeds are too quick for this scheme and junction, positioned between blind bend and blind summit (with school on the other side of the brow).
- Parking problems for the school on the Horning Road verges will be exacerbated.
- Church Road is already busy for school children, is a 'rat run' and has accidents.
- The church entrance gate access is dangerous enough before the additional traffic.
- The footpath along the length of Horning Road will increase danger from school drop-offs and collections and encourage stopping much further along Horning Road, which then endangers cars travelling around the bend on Horning Road.

#### Residential amenity:

- The effects on existing residents will be excessive.
- Direct overlooking and loss of privacy to existing residents in Meadow Drive.
- The trees proposed to offer screening will take a long time to mature and then will be ineffective when trees are out of leaf, or cause too much shading in summer months. As they are in rear gardens they will cause shade then be removed, then overlook.
- A 5-bedroom house on the southern side of the scheme is completely inappropriate, especially given the sloping site.
- The massing is squeezed too close to the boundaries of the existing houses.
- There is no tree belt between the properties to prevent overlooking, so the trees in gardens will probably be removed and exacerbate overlooking.
- Play equipment next to dwellings will cause excessive noise.
- The footpath / cycle route onto Meadow Drive is a security risk / escape route, and is unnecessary.
- The footpath / cycle link junction with Meadow Drive has poor visibility and exits into the area also used as a turning circle so will cause safety issues for new residents.
- Air source heat pumps can create noise for neighbours and should be replaced with ground source heat pumps, which are also more efficient.
- Lights from cars using the development will disrupt residents of Meadow Drive, due to the levels difference.
- The proximity of homes to the church graveyard is inadvisable.
- Noise and disturbance from the works will affect neighbours who are mostly elderly.
- The play area should be relocated to the north of the site in the retained field / meadow.



#### Heritage:

- Significant impact on the setting of the listed Church of St John.
- Loss of the view of the Church from Horning Road.

#### Drainage and flood risk:

- Infrastructure will be overloaded.
- River flooding from the River Bure and Brimbelow Dyke will increase as flows from this development are added to it instead of returning to the groundwater.
- Surface water from the site will flood into Meadow Drive.
- There are no proposals for collecting any overflow of surface water.
- The impermeable soils on the Church Fields site will render infiltration ineffective.
- Sewage will be overloaded – properties at the east end of Meadow Drive are not adopted and are pumped into the Anglian Water system and will be blocked / back-up, and groundwater already seeps into the sewer system causing it to overload.
- There is no allowances or contingency to account for future hard landscaping by residents / homeowners which could increase impermeable surfaces.

#### Ecology:

- Loss of habitat.
- Loss of wildlife species from the site, including birds, reptiles, harriers, owls and bats.
- Loss of wildlife corridor connection to the Broads (contrary to the NERC Act).
- Light pollution will drive out other wildlife from the area.

#### Other concerns:

- The doctor's surgery will be overloaded and increase waiting lists; the catchment area apparently includes Wroxham and Rackheath and the significant growth there.
- The local schools will be overloaded – and Hoveton is not due to receive additional national government funding for expanding populations.
- The "community benefits" proposed are not in accordance with policy and don't outweigh the harm caused by the development, and many only serve new residents.
- The 'benefit' of the church graveyard is a false assumption as the church going population is small and will likely not need the additional churchyard space.
- Loss of good quality agricultural soils.
- The energy efficiency of the scheme is minimal and should be improved – the scheme should be designed to make better use of solar orientation and passivehaus standards.
- Urbanising effects will increase, but communities need open spaces and natural areas.
- The graveyard extension could affect the groundwater.
- Landscaping will be ineffective and poorly managed. The requirement to maintain trees and areas in the control of the Hoveton Estate might be easily forgotten.

#### Non-planning issues:

- The two developments will decrease house prices.
- The application has not been advertised to the residents of holiday lets on the private road on Meadow Drive.

The Church of St John has also confirmed that they will shortly need to increase the capacity of their graveyard, so would welcome the proposed extension and contributions offered if it met the planning policy requirements. However, the Church wished to make clear it did not endorse or support the proposal and it had specific concerns that works should protect the trees along the Horning Road embankment, provide public walking routes alongside and to the rear of the church and graveyard, and at least retain, if not extend, the car parking layby.

### Pre-application community consultation

Officers did not consider it necessary for public consultation immediately prior to submission of the revised scheme, however the applicant had already undertaken a public exhibition in Hoveton village hall (September 2015, c.79 attendees) and advertised the suite of 3 proposals in household 'leaflet drops' and in the parish magazine. The results are described in the Statement of Community Involvement. Feedback on the housing scheme was generally not favourable but the comments included some recognition of the potential benefit from jobs creation through the employment site. This exercise meets the expectation of the North Norfolk Statement of Community Involvement requirements.

## **CONSULTATIONS**

**Environmental Protection Officer – No objection** subject to conditions.

The desk study contamination report recommends further investigation which should be secured by conditions.

**Norfolk County Council Highways Authority – No objection** subject to amendments.

No objection in principle, but improvements to the proposal are required.

The applicant has provided a traffic survey including vehicle speeds assessment and junction visibility analysis. Before proposing any conditions, the amendments considered necessary are:

- A full-length off-site footpath is needed to the school.
- A part-time 20mph zone should be provided adjacent to the primary school.
- A splitter island is needed on Horning Road to replace the existing red surfacing.
- Carriageway width either side of the splitter island should be 3.5m.
- Trees should be planted on both the north and south sides of Horning Road, to act as speed control measures by reducing the peripheral vision of drivers and aid compliance with the 30mph speed limit.
- The informal lay-by (by the Church of St John) should be formally constructed.
- Access to the retained field should be provided, and shown on the plans.
- Clarification is needed on the areas proposed for adoption as highway verges.

**Environment Agency – No Objection.**

Objection – concerns over pollution prevention.

The cemetery extension assessment report wasn't originally provided and needed to include information about the number of burials per year and the impact that may have.

Objection removed – Further to the receipt of the Tier 1 Cemetery Assessment, there is not considered to be a risk from the forecasted 5 burials a year.

The direct discharge to the River Bure may require a separate Flood Risk Activity Permit if it is creating a new outfall; this is a risk-based framework that enables the EA to focus regulatory effort towards activities with highest flood or environmental risk. Lower risk activities will be excluded or exempt, and only higher risk activities will require a permit.

A Discharge Consent may also be required and the applicant should consult the EA's National Permitting Service for advice.

### **Natural England – Objection.**

The scheme does not quantify its effects on designated sites in the area, nor confirm the range of mitigation proposed within the scheme, and as such cannot be determined to avoid a significant effect on designated sites, and thus cannot pass the Habitats Regulations Assessment. Further information is needed in respect of habitat protection from recreational pressures, sewage treatment and discharge and water supply.

A supplementary response is expected prior to the Committee meeting and will be provided as a verbal update.

### **Historic England – No comment.**

Did not wish to offer comments, and instead deferred to the NNDC specialist advice.

### **Broads Authority – Objection unless the scheme can be amended.**

As with previously-withdrawn application PF/16/0731, the Broads Authority considers the scheme to create an adverse effect on the setting of the Broads National Park by creating a significant extension of the urban area into the rural transition zone, and eroding the gentle transition from urban to rural. It is disappointing that the scheme has still not considered the presence of the adjoining National Park within its Landscape and Visual Impact Assessment. It is noted that the impacts are reduced since the last proposal, but certain issues remain unresolved:

- Hedgerows should be used as boundary treatments throughout the scheme, to improve ecological links and create a more rural character of development than the proposed suburban form of close board fencing impermeable to wildlife.
- Improved tree planting along the south boundary could provide an ecological link to the east and western woods.
- The site entrance visibility splays create an urban effect which should be softened by using native hedging along the north of the field to enclose the retained field, provide screening from the road, and help retain rural character.
- All landscape planting should be of native species.
- The retained field to the north should be considered for use as public open space and management as grassland, for both recreation and ecological benefits.
- A Landscape and Conservation Management Plan should be required, to secure the ecological enhancements discussed, including the northern field, biodiversity links, green infrastructure and public access.
- Lighting should be restricted and agreed by condition.

Summary – although an improvement over the previous proposal, the Authority's objection can only be removed if the recommended conditions are used and the amendments are provided in respect of: the use of the northern field; the provision of hedging including the northern hedge / southern boundary to Horning Road; and, provision of more trees to the south.

## **NCC Flood & Water Management (LLFA) – Objection.**

Objection due to inappropriate modelling of drainage scheme and inadequate detailing of infiltration capacity. The objection could be removed if the supporting information is provided appropriately, but cannot be resolved only by relying on use of conditions.

- There has not been adequate infiltration testing to prove that the proposed permeable paving will work.
- There is no justification for the scheme not using infiltration 'at depth' as the primary means of drainage, so it does not comply with the sustainable drainage hierarchy.
- Further calculations are needed for the full extent of 40% climate change allowance.
- The site has calculated its drainage across the whole development, rather than just the impermeable areas, which distorts the calculation of the required discharge rate.
- Adoption, management and maintenance proposals are required.
- The exceedance flow calculations require assessment of an event of more than a 1 in 100 year rainfall event, with the depth and velocity of any flood water quantified, and the finished floor levels of the development needing to be confirmed.
- The proposed bund and swale features for exceedance planning should be detailed.
- There is an absence of details for a post-development 1 in 100 year 6 hour storm.
- There needs to be better link between drainage calculation and pipe flow sizes on the plans, and clarity over the use of different discharge rates within the same system.

In addition, the Norfolk Rivers IDB should be consulted as the proposal is to drain into Snape Water to the south, which in turn connects to the River Bure.

The additional information submitted in response to the initial objection has not resolved the issues and there remains insufficient information provided to demonstrate the site will be able to drain without increasing flood risk. The objection remains in place because the initial concerns have not been addressed.

**The Norfolk Rivers Internal Drainage Board** – No comments received at time of writing.

## **Norfolk County Council - Planning Obligations Co-Ordinator**

- **Education:** - There is no spare capacity within the Early Education sector (2-4yrs) nor at St. John's Community Primary School & Nursery (3-11yrs), although there is some spare capacity at Broadland High School even taking into account the permitted major schemes in the same catchment. As a result, an Education contribution of £81,508 is required, for improving local provision through expanding existing providers of early education and extending the primary and nursery school capacity.
- **Fire hydrants:** - 1 hydrant is needed for the development, costing £815.
- **Libraries:** - The development should provide a contribution of £1,875 (i.e. £75 per dwelling), to mitigate the increased pressure on library resources. This would be spent at Wroxham library on IT equipment.
- **Green Infrastructure & Public Rights of Way:** - Green infrastructure should be included within the site and the scheme should include connections into the local Green Infrastructure (GI) network, including Public Rights of Way and ecological features to address the potential impacts of development. A maintenance / mitigation contribution should be provided to ensure the development can integrate into the GI network and be accommodated without negative impact. A contribution of £1,500 is

required for the County Council to provide links to the existing network, eg. signage or extending rights of way, or producing a 'welcome pack' for all the new dwellings which would include information on local sustainable recreation opportunities (e.g. the Three Rivers Way, Bure Valley Way), and which raises awareness of why the Broads landscape and SAC is important (such a pack will also encourage sustainable lifestyle habits, enhance quality of life and provide wider health benefits to the community).

### **Anglian Water – No objection**

There is capacity available within the Belaugh Water Recycling Centre and the intervening foul sewage network to accept wastewater and the sewage discharge. Proposed surface water disposal is not proposed to affect existing Anglian Water assets, but if the proposal is to discharge into a watercourse it should be verified by the Environment Agency. Existing problems in the network are operational issues that are to be addressed by Anglian Water.

### **Historic Environment Service – No Objection, subject to conditions.**

The archaeological survey undertaken has shown evidence of a large former quarry; this and the proximity to the St John's Church means there is a distinct possibility for mediaeval and Anglo-Saxon archaeological heritage remains to exist at the site. Any permission should include conditions for trial trenching and a Written Scheme of Investigation, evaluation and publication of results, all prior to commencement of development.

### **Conservation and Design Officer – Objection.**

#### Impact on heritage assets –

The original and previously-withdrawn proposal for 31 dwellings (PF/16/0731) gave significant cause for concern from the impact of the scheme on the setting of the Grade II\* Listed Church of St John and the Grade II Listed Church Farmhouse, and it was concluded that the resultant suburbanisation and visual competition would lead to significant harm being caused. It is acknowledged that the revised / resubmitted scheme has been scaled back to try and address the original concerns by withdrawing the northern extent of the development and moving the eastern development away from the Church Farmhouse access drive. Both revisions are an attempt to reduce the immediacy and impact of the new dwellings such that the primacy of the heritage assets remains unchallenged.

Whilst the amended scheme will still cause some degree of harm to the setting of both listed buildings, the amendments have reduced the degree of harm to a level that can be described as "less than substantial", which accordingly means that a lower level of public benefit is required to 'outweigh' the harm caused.

The proposal sets the new build back some 50m further into the site, and uses only single-storey dwellings on the three main frontage plots, so is less apparent from public vantage points and reduces any sense of 'outflanking' the Church. As the fall of the land to the south will reduce the impact of the taller buildings, the development as a whole would be a good deal more recessive in the landscape.

The northern and eastern edges of the development have been retracted such that they no longer feel overly-assertive when approaching along Horning Road. The new planting helps the site feel more deferential in its relationship to the Church. The churchyard and its extension would also not feel enclosed or overlooked now.

The approach to Church Farmhouse has been improved by moving the eastern boundary back into the site and reducing the numbers of houses in that area, so reducing the sense of the rural road being encroached upon, though that will only succeed if the new tree belt planting is successful. The development would, however, erode the relationship between Church Farmhouse and the Church of St John, both in terms of removing the outlook between the two and any historical connection in their setting.

However, notwithstanding the amendments made, it should be noted that a new housing estate will greatly affect the existing relatively unspoilt setting of both listed buildings. Hence, rather than these being characterised by isolation and rurality, extending out the built form in the manner proposed would undoubtedly still have something of a suburbanising affect.

Across the site frontage, having a footpath running in front of the Church does not appeal; it would have a suburbanising impact on the approach to the settlement, and fail to enhance the setting of the Church. Regrettably, however, it would appear that the alternatives have all been ruled out (i.e. through/behind the Churchyard or simply using the existing 3 Rivers Way footpath opposite). As such, it adds to the heritage harm previously identified.

#### Design –

The layout is much closer-knit than existing homes to the south. However, in the absence of a properly defined form and character locally, and because the scheme would be relatively self-contained once it's associated planting matures, this is not considered to be a particular design concern. Therefore, as the private roads have been reduced in their formality and regimentation, the scheme raises no substantive objections.

In terms of materials, styles and appearance, the house types have suburban forms and detailing rather than anything that might be regarded as fresh and innovative, so there is no sense of being distinct to the locality or making a positive contribution to the District's built environment. Instead, it would simply be inoffensive and neutral, architecturally, although they will now be more appropriately proportioned.

Landscaping and the boundary treatments will be as important if the scheme is to integrate into its surroundings. Hence, it should avoid solid wood-panelled fences around the perimeter of the site and instead should feature native hedge and tree planting which is supplemented with open and recessive mesh or post and rail fencing if required.

#### Summary –

This scheme remains an unappealing one in Conservation & Design terms for the reasons outlined above, but it is acknowledged that the quantum of heritage harm has been significantly reduced in this latest scheme. Should, ultimately, it be considered that the public benefits accruing from the scheme outweigh this harm, conditions covering the prior agreement of materials and landscaping are requested.

#### **Landscape Officer – Objection.**

The application does not demonstrate that it will be able to meet the recreational needs of residents within the site. The design does not provide sufficiently permeable boundaries suited to wildlife and ecological connectivity, nor to the rural setting of the development and surrounding landscape character.

At the time of writing, the application has not demonstrated that it will avoid a likely significant effect on the internationally-important designated wildlife sites in the vicinity (namely the Broads Special Area of Conservation and Special Protection Area and Ramsar sites), nor the internationally protected species within them (e.g. within the Broads and Bure Marshes Sites of Special Scientific Interest). Until further information is provided, the application cannot be

said to pass the necessary tests of a Habitats Regulations Assessment, and should not be considered for approval until it does so, or until it proposes suitable mitigation. Particular issues are the impacts from visitor pressure on designated sites, and the possible effects of water abstraction from - and sewage treatment discharge into – catchments containing the sensitive habitats and protected species.

**Countryside and Parks Officer – No objection.**

The development of this scale should provide on-site public open space, informal green infrastructure, allotments and children's play facilities in accordance with the pro-rata space requirements of the draft Open Space Study (2006) and Core Strategy Appendix A. If this can't be provided, a pro-rata financial contribution should be provided to the existing public open space facilities in Hoveton and nearby allotments [Horning].

**Strategic Housing Officer – No objection, subject to planning obligations.**

The proposed 7 affordable dwellings comprise 4no, rented and 3no, shared ownership properties; these will help meet the identified housing need for the Hoveton area. The affordable housing provision amounts to 28% of the total, which falls short of the core strategy requirement for 45% affordable housing. However, the Council's independent view of the proposal's viability appraisal is that the scheme represents a fair and reasonable financial outcome for the developer and landowner, and confirms that the number and tenure of affordable housing proposed is the only viable proportion possible; it would not be viable to provide 45% if the employment-enabling development continues to feature in the appraisal.

There is an appropriate range of sizes and types of dwelling within the scheme, including 2-bed houses, 2, 3, 4-bed bungalows, and 3-5 bed houses. This includes the necessary 2-bed accessible bungalows. The mix therefore complies with the requirements of policy HO1 to provide 40% of the dwellings as 2-or less –bedrooms and 20% as accessible and adaptable bungalows.

**External independent financial appraisal advisor – No issues raised.**

The applicant's financial appraisal is consistent with market conditions and local development activity and provides a fair reflection of the values, costs, fees and profit allowances expected of a scheme of this nature and scale. The full costs and detailed appraisal provided have been examined and the overall methodology is considered sound, with reasonable inputs.

The appraisal shows clear links between the residential proposal and the commercial development, and demonstrates how the commercial site will not be able to proceed without access constraints being removed and the site services being installed by the developer, and the site subsequently being purchased by Benthic Solutions Ltd.

**NHS England – No objection.**

Due to the size of this proposed development, there is not an intention to seek Primary Healthcare mitigation through Section 106 process.

**Planning Policy Manager – No comments provided on this application.**

**Broadland District Council – No comments received.**

## HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, approval of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

## CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

## POLICIES

### **North Norfolk Core Strategy Policies (September 2008):**

SS1 – Spatial strategy for North Norfolk

SS2 – Development in the Countryside

SS3 – Housing

SS4 – Environment

SS6 - Access and infrastructure

SS11 – Hoveton

HO1 – Dwelling mix and type

HO2 – Provision of affordable housing

EN1 – Norfolk Coast Area of Outstanding Natural Beauty and The Broads

EN2 – Protection and enhancement of landscape and settlement character

EN4 – Design

EN6 – Sustainable construction and energy efficiency

EN8 – Protecting and enhancing the historic environment

EN9 – Biodiversity and geology

EN10 – Development and flood risk

EN13 – Pollution and hazard prevention and minimisation

CT2 – Developer contributions

CT5 – The transport impacts of new development

CT6 – Parking provision

### **Other material considerations:**

North Norfolk Design Guide Supplementary Planning Document (December 2008)

Landscape Character Assessment Supplementary Planning Document (June 2009)

### **National Planning Policy Framework (NPPF):**

Section 4: Promoting sustainable transport

Section 6: Delivering a wide choice of high quality homes

Section 7: Requiring good design

Section 10: Meeting the challenge of climate change, flooding and coastal change

Section 11: Conserving and enhancing the natural environment

Section 12: Conserving and enhancing the historic environment

## MAIN ISSUES FOR CONSIDERATION

1. Principle of development
2. Delivery and link to the employment site
3. Housing



4. Highways safety
5. Impact on Heritage Assets
6. Drainage
7. Residential amenity
8. Trees and landscaping
9. Ecology
10. Impact on Designated Sites
11. Planning obligations

## **APPRAISAL**

### **Principle of development**

Section 38 of the Planning and Compulsory Purchase Act 2004 sets out a statutory requirement that, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for North Norfolk comprises:

- The North Norfolk Core Strategy (adopted 2008), and
- The North Norfolk Site Allocations Development Plan Document (adopted 2011)

The application site is located in the Countryside Policy area where there is a general presumption against the grant of planning permission for housing under Core Strategy Policy SS 2, unless the proposal falls within the exceptions set out in that policy. The Council is in a position where it can satisfactorily demonstrate a five-year land supply (supported by very recent appeal decisions) and therefore there would have to be other material planning considerations in favour of the proposal for housing to outweigh the identified policy conflicts.

In this case the applicant has advanced a financial enabling justification linked to the provision of employment land approved under application ref: PF/16/0733 on land adjacent to Stalham Road Industrial Estate, Littlewood Lane, Hoveton, which comprises, amongst other things, the provision of an approved site for the construction of a two-storey commercial building for office/light industrial and ancillary storage uses for Benthic Solutions Limited (BSL), and serviced sites with outline permission for at least another three buildings of a certain floorspace and scale (required within planning conditions of permission PF/16/0733).

The link between this housing site and the employment land provision is explained in more detail below. In essence, the provision of housing can only be considered acceptable if the financial enabling link between the two sites is clear and compelling. It is a matter of judgment for the planning committee to weigh up the benefits associated with the proposal against the dis-benefits including affording appropriate weight to the statutory duties placed on the Local Planning Authority in relation to the desirability of preserving listed building(s) and their setting(s) or any features of special architectural or historic interest which they possess.

### **Delivery and the enabling argument**

This development is proposed to 'enable' the commercial development at Littlewood Lane by ensuring that permissions are in place and the land is made available and accessible for commercial development. This proposition has been examined by the Council's independent advisor and is found to be robust in its viability assessment and enabling argument. Essentially, the value of the residential land, generated by the sales of the homes, is found to be necessary to both address the costs of facilitating the Littlewood Lane site, and incentivise the release of the Littlewood Lane land from the current landowner. The costs of the project do not include the actual construction of any of the commercial buildings, but they do include

the costs of overcoming the obstacles needed to allow the subsequent construction. The planning permission at Littlewood Lane has been proposed and approved to meet the needs of a specific occupant, Benthic Solutions Ltd, who will also have a binding land interest in the Littlewood Lane site sufficient to enable the planning obligations from the residential scheme to require Benthic Solutions Ltd to complete and occupy the Littlewood Lane site.

The commercial development has a financial dependency on the residential development because the landowner expects to receive a receipt for the land close to the value expected for a commercial development on the open market (which is not unusual nor unreasonable and is consistent with NPPG and RICS guidance on viability). However the purchase price arranged with Benthic Solutions for the serviced land does not cover the costs of acquiring land to gain access to the site nor planning and design costs, hence the requirement for other development to make up that difference.

Once the costs of 'enabling' the employment site are covered, the scheme must make itself viable. In essence, the proposal offers more housing than is strictly necessary to 'enable' only the commercial development, but it must also offer the developer and landowner enough incentive to bring the development forward. It has been shown that, within reasonable tolerances, the residential scheme does provide a competitive level of developer profit and land sales price whilst also providing as much affordable housing as is viable to do so, and also providing the range of planning obligations required to address the impacts of the dwellings proposed. Had more affordable housing been provided, the enabling development would not be possible, and had only the enabling works been provided, the incentive to release the land and develop either site would not be included.

Officers and their external advisor are satisfied that the associated development at Littlewood Lane can both be delivered through this development, but also will not proceed unless this quantum of residential development is provided, because that ensures the access constraints are removed, site services and infrastructure are installed, and the site can be purchased by Benthic Solutions. The access provision and site infrastructure will be provided at the cost of the developer of this residential scheme, so it is accepted that this development is necessary to enable the Littlewood Lane permission to be delivered for the occupancy of Benthic Solutions. The means to do so will be secured through appropriate planning obligations being imposed on the residential site.

### **Housing**

The housing mix proposed includes 2-bed houses, 2, 3, 4-bed bungalows, and 3-5 bed houses. This includes the necessary 2-bed, accessible bungalows. The mix therefore complies with the requirements of policy HO1 to provide 40% of the dwellings as 2-or less – bedrooms and 20% as accessible and adaptable bungalows.

The 7 affordable dwellings amount to 28% of the 25 dwellings, and comprise 4 no affordable rent (consisting of 3x 1-bed houses and 1x 2-bed house), and 3 no. shared-ownership tenure (consisting of 3x 2-bed houses). This is 57% affordable rent and 43% intermediate tenure, whereas Policy HO 2 expects a mix of 80%/20%. As such the tenure mix does not quite reflect the overall need, but the viability assessment has confirmed that it is the optimal reasonable and deliverable mix possible, and any alterations to this would require compromising other significant planning obligation contributions such as education.

### **Highway safety**

The scheme is served by a single access from Horning Road, the A1062, and within the scheme there are two private drives off the main access. A footpath and cycle link connects to Meadow Drive in the south-east corner.

The Highway Authority does not support development served directly off the Horning Road in this general location, because the two main physical constraints (the bend to the east of the site, and the brow of hill to the west) in combination with the faster speeds of vehicles all compromise drivers' awareness. If providing a new access is necessary, the Highway Authority would prefer it to be sited as close to the Church as possible, where there is more visibility on either side of the brow of the hill, and greatest distance from the bend, and, further, would prefer built development to be sited against the Horning Road. However, this would also create a significant incursion into the setting of the listed building and, given the absence of other accesses on this route out of the village, Officer's consider this would increase the sense of the urban expansion of the village into the countryside.

The proposed highway solution has been influenced by a preference for the new access to be separated from the Church, and is positioned on the eastern side of the site. In doing so, the applicant assessed vehicle speeds and frequency on Horning Road, and undertook a Road Safety Audit. The proposed access strategy now:

- Shares the same site access as the existing Church Farmhouse and barns complex;
- Positions the north / south access road and footpath outside the root protection area of the existing mature oak trees, removing a single small stand-alone tree;
- Provides a continuous footpath along the south side of Horning Road, within land that will be adopted by the Highways Authority;
- Removes existing hedging to provide the necessary visibility splays;
- Relocates the existing 30mph speed limit to the east of the new access;
- Includes a splitter-island within the carriageway and a 'gateway' feature either side, to mark the entrance to Hoveton on the east of the new access;
- Proposes a continuous footpath link in front of the Church and Primary School to link the site;
- Proposes using trees on both sides of Horning Road to reduce peripheral vision for drivers and encourage slower and more considerate driver behaviour.

However, the proposed works are not without complications and the following concerns remain pertinent:

- By locating the access to the east, vehicle speeds could increase once drivers heading west into the village round the bend and drive uphill, whilst the brow of the hill means drivers heading east have less time to be aware of vehicles turning right into the site. It is hoped the proposed tree avenue can minimise the temptation to increase speeds; although this is by no means an ideal mitigation for an undesirable siting, it is a technique that has been seen to have some success in other parts of the district.
- The wide visibility splay required either side of the access means the existing hedging / brambles at the edge of the field would be removed, so erodes the countryside / rural appearance of the site.
- Removing the hedge makes the roofs and gables of the development more visible from Horning Road so causes a degree of harm to the setting of both listed buildings.
- The continuous new footpath will be visible in the approach to, and exit from, the village; it will erode the historic and isolated setting of the church and appear incongruous in front of the raised embankment with its gravestones and scots pine trees, but it would not have been acceptable from a highways safety perspective to not provide a path and instead rely on people crossing the A road to the 3 Rivers Way.
- The connecting path in front of the school would 'tidy' the existing worn area of verge used by school visitors but it would also formalise this area and encourage more parking on or alongside the verge/path, possibly forcing pedestrians up the bank or around cars and into the road; unfortunately, the constraints of the adjoining land

meant it did not prove feasible to provide a publically-adoptable path that avoided these impacts.

- Measures to avoid parking in Horning Road would either require in-road signage or such hard infrastructure that would have an over-engineered appearance.

The Highways Authority have accepted that the scheme's package of measures provides adequate mitigation of the impacts and sufficiently reduces the risk of accidents – but only if the scheme includes the following additional amendments:

- Details of the full-length off-site footpath outside the school, with large enough kerbs / bollards to avoid vehicle overrun; this could be secured by the imposition of planning conditions.
- A part-time 20mph zone should be provided adjacent to the primary school, which could be secured by the imposition of planning conditions; and,
- The informal lay-by (by the Church of St John) should be formally constructed; this is not yet proposed or agreed in principle.

The existing layby outside the Church is located on highway verge land and is currently rough gravel. Church users currently park perpendicular to the Horning Road, with room for approximately 11 cars parked informally. The Church of St John would like to see this area extended, to accommodate 20 cars for use at peak times (e.g. services, funerals, coffee mornings), but it is unclear how there is a demonstrable link between this development and the need to increase the parking capacity for the church. However, the Highways Authority is concerned that the layby should be resurfaced because more vehicles will be using this part of Horning Road and resurfacing would improve ease of access/egress and thus reduce risk during manoeuvring. Further, the character of the road is changing, more pedestrians will be introduced to the area and there will be an increased temptation for cars to park in this area, so there is a need to provide facilities that will help avoid the footpath itself becoming a parking area.

To date, the applicant has not agreed with the suggestion that the layby should be resurfaced, but this was a very recent request at the time of writing; a verbal update will be provided to the Committee. The Highway Authority have made it clear that without a commitment to upgrade the layby their objection would remain in place due to the scheme not fully addressing the safety concerns that have been raised in respect of the local highway network.

### **Impact on Heritage Assets**

Whilst there are no known heritage assets on the application site, there are heritage assets in the surrounding area whose setting could be affected by the proposal including:

- Church of St John (Grade II\* Listed); and
- Church Farmhouse (Grade II Listed)

The National Planning Policy Framework (NPPF) paragraph 132 states:

*'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.'*

The NPPF defines setting of a heritage asset as the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, and may affect the ability to appreciate the significance or may be neutral. Significance is defined as the value of a heritage asset to this and future generations because of its heritage interest.

Significance derives not only from a heritage asset's physical presence, but also from its setting.

When a proposal affects a listed building, the Committee is required by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay "special attention" to the "desirability of preserving" the setting of listed buildings. When a local authority finds that a proposed development would harm the setting of a listed building it must give that harm considerable importance and weight. There is effectively a statutory presumption against planning permission being granted. That presumption can, however, be outweighed by material considerations powerful enough to do so, including the public benefits of a proposal.

In considering development proposals affecting heritage assets, Core Strategy Policy EN 8 sets out that *'Development that would have an adverse impact on...special historic or architectural interest will not be permitted'*. However, this element of Core Strategy Policy EN 8 is now out of step with the guidance set out in the National Planning Policy Framework which is more permissive towards allowing development affecting heritage assets but only where there are clear and convincing public benefits in favour, in accordance with the statutory requirements set out above.

In terms of the heritage assets likely to be affected, it is important to assess whether, how and to what degree setting makes a contribution to their significance.

#### Church of St John (Grade II\* Listed)

The Church occupies a relatively prominent position on the approach to Hoveton from Horning along the A1062. The church sits at the top of a small rise in land and the church site features a number of mature trees which have now partially screen the church from wider views. The character of the surrounding area is predominantly rural and agricultural in nature. The church has a range of heritage values including aesthetic (both designed and fortuitous) as an attractive feature on the entrance to the village, historical (illustrative) in terms of the evolution of the church from 11<sup>th</sup> century through to more recent 18<sup>th</sup> and 19<sup>th</sup> century alterations and communal value (social) as an important local building with special meaning and the evidential value of the building which has development over time.

The generally unspoilt character of the surrounding area contributes positively to the setting of the church, albeit that it has to be recognised that 20<sup>th</sup> century development along Meadow Drive, amongst others, and more modern street signage and furniture have already begun to erode the rural character and therefore the setting of the church.

The development of the adjacent field will undoubtedly impact upon the rural setting of the church. The Conservation Officer is of the opinion that, by setting the new build elements back into the site, and by having only single-storey dwellings on the three main frontage plots, the new build elements would be apparent but would occupy a more respectful position in relation to the church. The fall of the land to the south would also reduce the impact of the taller buildings and the development as a whole would be generally recessive in the landscape. The proposed landscape elements would also help reduce the impact of the development on the setting of the church.

Other aspects of the proposal include the provision of a new 1.8m wide tarmac footpath along Horning Road which would run past the church. The existence of the footpath would likely be experienced as an engineered and urban feature which would detract from the rural setting of the church.

Overall, the proposed development would impact noticeably upon the setting of the church and this impact would neither preserve nor enhance the setting and therefore harm must be concluded resulting from the suburbanising effect of development. The Conservation Officer

considers the harm to fall within the 'less than substantial' category and therefore sufficient public benefits would be required to outweigh the statutory presumption against the grant of planning permission.

#### Church Farmhouse (Grade II Listed)

Church Farmhouse occupies a relatively withdrawn location and is approached down a tree-lined track. From the A1062 Horning Road the farmhouse is barely perceptible. The rural setting of the farmhouse contributes positively to the setting of the building and the name of the farm implies historical connections with the church of St John with the likelihood of past visual connections between the two buildings across the field.

Church farmhouse has a range of heritage values including aesthetic (designed) with the straight and dramatic way the farm is approached down the tree lined avenue flanked either side by agricultural fields and with the change in topography revealing the aesthetic quality of the farm house building beyond, and historical (illustrative) as an example of agrarian architecture and agriculture in operation since the original c16 farm house was constructed with also contributes to the evidential value of the building.

The development of the adjoining field would adversely impact upon the setting of church farmhouse, most notably the designed approach to the farm house and the relatively unspoilt character the surrounding land either side. Development would result in a significant change to the character of the approach road which would be shared with both the farmhouse and the new development. With more than half of the approach route flanked by housing on the northern side which will distract from the approach to the farmhouse. The presence of the housing development would also sever the connection between the church and the farmhouse.

Whilst efforts have been made by the applicant to introduce additional planting to help soften the development, overall, the proposed development would impact noticeably upon the setting of the church farmhouse and this impact would neither preserve nor enhance the setting and therefore harm must be concluded resulting from the suburbanising effect of development. The Conservation Officer considers the harm to fall within the 'less than substantial' category and therefore sufficient public benefits would be required to outweigh the statutory presumption against the grant of planning permission.

Paragraph 134 of the NPPF states:

*'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use'.*

Other non-designated heritage assets would include the wider landscape which also encompasses The Broads National Park. Core Strategy Policy EN2 requires that development proposals should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance among other things the special qualities and local distinctiveness of the area. The proposal would result in a loss of rural character along the edge of the settlement of Hoveton and this would amount to harm to the wider landscape setting of the Broads National Park

Officers consider that there would need to be significant public benefits in favour of the proposal to outweigh the identified harm to designated and non-designated heritage assets. This assessment will be made in the planning balance below

## **Drainage**

The proposal has been based on infiltration test results that suggest individual properties would not be most appropriately served by soakaways. Instead the proposed system for surface water collects runoff into attenuation pipes, where it is stored and released via flow control chambers at greenfield run-off rates, directly into a tributary arm of the River Bure adjacent to Meadow Drive.

The Local Lead Flood Authority maintain their objection because the scheme has not fully demonstrated that infiltration is not appropriate, and has equally not demonstrated that the shallow-depth infiltration would be effective, so the proposed permeable paving of drives and private roads cannot be confirmed to be appropriate. Further, the development has not accounted for the full extent of climate change effects required in the NPPF, and has not calculated the impermeable site area's greenfield run-off rate requirements.

Officers consider that the site has the potential to accommodate appropriate sustainable drainage systems, but accept that some elements need further technical clarity, such as increasing attenuation system capacity and exceedance management to account for climate change and storm events. A verbal update on the issue will be provided to the Development Committee in relation to ongoing discussion between applicant and LLFA.

Notwithstanding the technical exercise of preparing the proposed system, the applicant would still need to justify their position that the system is the best available solution because infiltration via deep-bore soakaways would be ineffective. This would require further infiltration tests, for which there is a notable lead-in time, so it is proposed that any resolution to approve the application is subject to the drainage strategy first being confirmed.

Foul waters are proposed to connect into the existing sewer in Meadow Drive. There are reported issues with blockages and flooding of the existing system but Anglian Water has confirmed there is capacity in both the treatment centre and the pipe network, having accounted for other permissions and the input of existing users east of Meadow Drive. It is assumed that any issues with the sewage connection is an operational matter for Anglian Water to resolve, rather than a capacity issue, but further details are expected from Anglian Water and will be reported to Committee as part of any verbal update.

## **Residential amenity**

The scheme layout has recognised the sloping topography of the site with bungalows proposed within the upper reaches of the slope and which also helps to reduce the visibility of the scheme in relation to the setting of adjacent listed buildings. The consequence is that some of the tallest buildings are positioned closest to the existing dwellings on Meadow Drive, and only one bungalow is proposed in the southern range, but these still have 35-45m separation distance between dwelling windows, compared to the Residential Design Guide's SPD's recommended minimum of 24m. Officers consider the relationship with existing dwellings to be acceptable and any impact would be reduced further by the screening between properties (existing and proposed trees).

The path onto Meadow Drive is considered an important route to introduce permeability into the site and provides connection with existing communities, as well as a convenient alternative route towards the village centre. The adjoining play area and public open space is an acceptable proposal, albeit is acknowledged to be in an awkward location and not be in accordance with the best possible urban design principles. However, the activity and the sense of openness that it creates does give a degree of purpose to the southern access link. The site would be managed by the Residents Management Group to provide a degree of self-policing. It is acknowledged that the Norfolk Police Architectural Liaison Officer would prefer to avoid such cut-through routes, for the purposes of controlling crime, but the consequence of doing so would be a very much more isolated community.

It is considered that noise from using the play area would be unlikely to give rise to unacceptable impacts for adjacent residents. The play area is small in size and would be limited to small features such as wooden balance beams and 'transition' play, rather than a form of destination for meeting the demands of the sites play requirements; the majority of play function would be expected at the Hoveton parish play area, with a financial contribution provided to enhance that facility.

Lighting and boundary treatments could both be controlled by way of imposition of planning conditions to minimise any adverse impacts. The proposed location and design of air source heat pumps could also be agreed by conditions, to include the noise emissions and control measures.

As such, subject to the imposition of conditions, the proposal would comply with Development Plan policies relating to residential amenity.

### **Trees and landscaping**

Trees are proposed as a thin screening line along the northern boundary of the development site, in line with the southern-most edge of the graveyard extension, which has the benefit of 'softening' the appearance of the scheme.

Trees are proposed in the rear gardens of the southern-most properties as a screening measure. Planning conditions would be used to determine size, scale, species and density of trees in these gardens, to ensure appropriate ecological connection and outlook / visual amenity.

There are concerns that in time the trees could be removed from private gardens, but it is intended to make sure the trees are protected by conditions – to be retained for 10 years whilst they establish themselves, and any such removal during that time would be in breach of condition. In 10 years if the trees do provide an important screening function or are a visual asset the Council could impose a Tree Protection Order on them.

The existing tree belts to the west and the new tree belts to the north and east would all remain in the control of the landowner, and management would remain the landowner's responsibility, particularly the retention of the permissive path and preparatory woodland clearance. It is recommended that the proposed planning obligations should include a specific management plan for the retention and management and maintenance of these trees and the landscaping of the field to the north and the open space, play and footpath area to the south.

The site is adjacent to the Broads Authority National Park, the boundary of which lies along the east boundary of this site (and takes in the Church Farmhouse and properties on the south side of Meadow Drive). The Landscape and Visual Impact Assessment has not undertaken an extensive investigation of the impact on the Broads landscape, but does note where there are greater or lesser degrees of sensitivity. The main impacts from the development are experienced from the Horning Road and at the mid-point of the Church Fields site, at the fall of the sloping topography. This is a relatively small 'window' to the Broads which is framed by the screening on east and west boundaries, with the eastern boundary being reinforced by the new planting. The view of the Broads landscape is long-distance and wooded, but is either screened by the hedging alongside the road, or is interrupted by the gables of existing properties. It is noted that the Broads Authority consider this proposal to be likely to create a detrimental impact and harm to the setting of the national park; however, officers consider in practice that the scheme does not have a noticeable significant visual connection to the wider Broads area, and the visual intrusion caused would be of a minor extent, and such impacts could be appropriately softened by the tree belts within and around the scheme.



To date, the applicant has not proposed a hedge along the northern field boundary, as requested by the Broads Authority, but the proposed 'traffic control trees' to the south of Horning Road does soften the appearance a little. There is however room within the site to provide a hedge behind the new trees alongside Horning Road and remain outside adopted highways land / visibility splays. Officers feel this would retain the sense of rural character to this northern field and mitigate some of the harm to the setting of the Broads landscape and both listed buildings. Officers consider this should be shown on amended plans and subsequently the details should be secured by condition, meaning that the impact on the landscape setting of the Broads area is only experienced from within the site's northern field or on the access road to the site.

### **Ecology**

There are a number of identified wildlife considerations in the area. Bats and badgers are present in the woodland belts, and their presence should be confirmed and accounted for pre-construction, with hedgehogs and other wildlife encouraged to move within and through gardens with the use of considerate fencing and hedging, rather than concrete and close-board fencing. The applicant's ecology report found there was no evidence of reptile or barn owl habitation on site, though a northern field meadow would provide suitable foraging ground for barn owls and kestrels, and encourage wildlife in general. Conditions / obligations would require a conservation management plan for the meadow and further surveys as necessary.

### **Impact of the development on Designated Sites**

Whilst the application site is not located within a designated site, the application could have the potential to have significant effects on nearby designated sites including:

- Broadland Ramsar
- The Broads Special Area of Conservation
- Broadland Special Protection Area
- Bure Broads and Marshes SSSI
- The Broads National Park

Natural England have advised that a Habitats Regulations Assessment be undertaken to ascertain the number of potential impact pathways to the designated sites listed above, including from:

- Increased recreational disturbance to species, in particular birds, by new residents.
- Trampling and erosion of sensitive vegetation by increased footfall.
- Increased fouling of sensitive sites by dogs leading to nitrification and an adverse change in plant communities.
- Increase in 'urban' effects, such as littering, bonfires etc. leading to adverse change in plant communities.
- Water requirements of the development considering the catchment which may affect wetland habitats and species.
- Water discharges and associated water quality impacts on wetland habitats and species.

Recreational pressures should be reduced by the scheme including a pedestrian circular footpath route for dog-walking and informal recreation, meandering through the two belts of woodland and northern tree belt and northern field edges. This should provide approximately 800m of footpaths and convenient benches, which should assist with meeting the average 2.7km dog-walking distance recommended by Natural England and reduce the need to visit more sensitive designated sites.

A key linkage between the site and designated sites is through foul water and subsequent treatment and discharge into the water environment. Anglian Water has confirmed that the development is in the catchment of Belaugh Water Recycling Centre and that there is capacity for these flows. However Anglian Water have not confirmed in detail whether treated effluent from this development could be discharged to the water environment within the terms of any environmental permit, nor whether such discharges can be accommodated alongside the other major developments with planning permission in the same water treatment catchment, notably developments in Wroxham and Salhouse. Further clarification has been sought from Anglian Water to ensure the upper limits of any environmental permits are not exceeded by this development or a combination of this and other developments.

The applicant has appointed The Ecology Consultancy who have produced a Habitats Regulations Screening Assessment (received 24 July 2017). Whilst this report concludes that there are no likely significant effects associated with the proposed development, these findings are yet to be verified by the Council's Landscape Officer and Natural England and this will likely be dependent upon the further response from Anglian Water. As such, a verbal update will need to be given to the Development Committee once the position of these consultees is known.

### **Other matters**

Whilst this site is Grade 2 Agricultural Land, the NPPF does not preclude development in favour of its protection. Paragraph 112 requires a decision to "take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use poorer quality land in preference to that of higher quality."

In this case, the site is relatively small and it is considered that the loss of Grade 2 value land is proportionate in this instance in recognition of the potential jobs creation associated with the enabling development, and that the site layout is the most rational possible for the quantum of development required.

Site contamination, archaeology investigations, energy efficiency, wildlife enhancement, lighting, and boundary treatment landscaping should all be secured by planning conditions.

### **Planning obligations**

The mix of affordable housing tenures proposed does not achieve the required 80% affordable rent and 20% intermediate tenure (shared equity) within policy HO 2. It has been considered whether the scheme could provide a more policy compliant balance of affordable housing tenures, but the costs of doing so would substantially reduce the vast majority of section 106 financial contributions including removal of payments towards education, for example, which would fail to address that need. Whilst this is a development that has few other "abnormal" costs, the reduced affordable housing provision in terms of number of both the units and their tenure split is in main due to the scheme facilitating the approved commercial development on Littlewood Lane.

The enabling development will be secured by planning obligations, preventing development of the Church Fields development land until the Littlewood Lane commercial site is prepared and serviced, and the foundations are provided, for the first and largest approved commercial building. Given that the remaining three buildings have outline permission only, the requirements of the enabling development have been extended to ensure that a reserved matters application is submitted in a timely fashion to keep the permission extant as long as is reasonably possible. If Benthic Solutions are unable to occupy the site immediately the obligations will include requirements to actively market the site to other investors.

The full range of planning obligations proposed are listed below.

- No road, access or housing construction works can commence on the Church Field site until
  - Building A on the Commercial Site has been constructed up to and including foundations and the access road and services within the Littlewood Lane site have been installed, and,
  - A contract has been let for the construction and completion of Building A to 'practical completion' in readiness for occupation.
- None of the private homes can be progressed beyond foundation level until Building A has been completed.
- Other than the 7 affordable units, none of the houses can be occupied on Church Field prior to the Occupation of Building A on the Commercial Site. Occupation to be by Benthic Solutions Ltd.
- Before commencement of Church Fields, a marketing strategy to be agreed in the event that if Benthic Solutions Ltd occupy then move out of Building A within 12 months.
- A valid full planning or reserved matters application(s) to be submitted for all matters on all 3 parts of outline site approved under PF/16/0733 whilst the current planning permission remains 'live' (the outline pp remains extant to 10 March 2020). In the event of the RM applications being withdrawn or refused, the outline site to be marketed.
- Affordable housing delivery prior to completion of market dwellings - 50% (4 dwellings) of the Affordable Houses to be ready for use prior to completion of 50% (9 dwellings) of the market houses, and remaining 3 affordable dwellings to be ready prior to 80% (14<sup>th</sup>) non-AH house.
- Provide 900sq.m. graveyard and £15,000 maintenance sum to the Church of St John, prior to completion of the last house.
- Provide £81,505 education contribution and £1,875 library contribution and £1,500 green infrastructure contribution to Norfolk County Council.
- Provide £4,050 play and public open space contribution, and £13,142 allotment contribution, and £1,250 visitor impact mitigation contribution to North Norfolk District Council.
- Provide on-site public open space and play and management and maintenance proposals.
- Provide circular walks within and around the woodland and northern field, to be accessible to the public in perpetuity, and plant the northern field in an appropriate manner, with appropriate management and maintenance proposals and a conservation management plan for all these.
- Agree management and maintenance proposals for drainage system and incidental landscaping and play equipment and play area facilities.

## CONCLUSION

In making its decision the planning committee will have to exercise planning judgment in weighing the public benefits of the proposal against the identified harm. The application for 25 dwellings and associated infrastructure is contrary to the development plan by proposing housing within the Countryside. The proposal is acknowledged to include difficult access arrangements and a design that has a degree of detrimental impact on the setting heritage assets (the Church of St John and Church Farmhouse, Hoveton) as well as adverse impacts on wider landscape character.

As the Council is able to demonstrate a 5-year housing land supply there is little or no justification to provide market housing in locations that do not accord with current adopted policy. As such, the proposal must offer notable public benefits sufficient to outweigh the level of harm caused to heritage assets and to justify the degree of conflict with the local planning policy.

The primary public benefits proposed are the jobs created through the enabling development and, to a much lesser extent, the provision of the church graveyard extension. The application has proposed various means to address the impacts of its development that cannot be said to be additional community or public benefits, such as the woodland planting or circular walks, or any of the associated planning obligation financial contributions. These are expected of any similarly-sized development regardless of location. The quota of affordable housing proposed is compromised, but has been found to be the most viable solution possible in the circumstances.

It has been confirmed that the scheme has an acceptable level of viability to be considered an enabling development and there are reasonable grounds to believe the employment site will be provided by virtue of this development being approved, although if the commercial site should not proceed the planning obligations should ensure that the residential development also does not proceed, particularly as the residential development can only be reasonably accepted if it is enabling the commercial development.

This residential development will enable the re-location of an existing employer from their substandard facilities and constrained site into a new and larger facility within Hoveton, and offer much greater potential to expand beyond that in the future. It is worth noting the benefits of the potential employment growth as considered within the determination of permission PF/16/0733: the relocation of Benthic Solutions will transfer at least 11 employees (with this likely to grow once the company has the additional floorspace), as well as an estimate of a minimum of 15 further jobs or a maximum of 42 jobs (depending on the eventual use of the overall approved quantum of B1, B2/B8 floorspace within Littlewood Lane), assuming the other 3 approved buildings are delivered. Whilst this may appear dependent on a single company, it should be noted that the enabling development will provide a fully serviced site with the benefit of various degrees of planning permission, onto which other commercial businesses could move, and provide marketing of the site in the event that Benthic Solutions do not build or occupy Buildings B, C and D within the medium-term.

The benefits of jobs growth, through construction of both sites and extension of the Stalham Road Industrial Estate, and marketing, are considered significant to Hoveton where there are few available and deliverable alternative employment areas, whilst the relocation from existing premises offers a site for other smaller companies.

Opportunities for new business growth would also increase business rate growth which can be used by the Council to fund other projects for the wider public benefit.

In terms of other public benefits, the extended graveyard offered to the Church of St John can attract some, albeit limited, wider public benefit in favour of the proposal.

Whilst the planning decision is finely balanced and the adverse impacts of the proposal cannot be ignored, the opportunity to positively support and enable business growth through linkages with additional housing development offers an opportunity that might not otherwise be delivered through the commercial/employment development alone. Approval of this application could act as a catalyst for further job and wealth creation to support the local economy.

As such, it is considered appropriate to approve this application, as a means to financially enable the delivery of the commercial land in the wider public interest.

The public benefits of the proposal are considered to attract sufficient weight such that they would outweigh the statutory presumption against the grant of planning permission under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 resultant from the identified less than substantial harm to the setting of two heritage assets, namely the Church of St John (Grade II\* Listed) and Church Farmhouse (Grade II Listed).

### **RECOMMENDATION:**

Delegate approval to the Head of Planning subject to satisfactory resolution of the following issues:

- 1) Confirmation that the drainage strategy can be resolved to the satisfaction of the Lead Local Flood Authority;
- 2) Confirmation that the development can provide appropriate recreational measures and ecological mitigation on site and that there is no significant likelihood of the scheme affecting designated sites, through verification of the Habitats Regulations Assessment in discussion with Natural England;
- 3) Resolution of the outstanding design concerns raised by the Highway Authority and Broads Authority; and,

subject to the imposition of appropriate conditions and subject to the prior completion of a Section 106 Agreement to contain the above listed planning obligations.

- (2) **NORTH WALSHAM - PO/17/0549 - Erection of up to 200 dwellings, open space, supporting infrastructure and other associated works (outline application) - revised submission; Land between Aylsham Road and Greens Road, North Walsham for MLN (Land and Properties) Ltd & Simon Rossi & Katherine Beardshaw & Nigel Rossi**

### **Major Development**

**- Target Date: 07 July 2017**

Case Officer: Miss S Hinchcliffe

Outline Planning Permission

### CONSTRAINTS

Countryside

Adjacent to Settlement Boundary

Adjacent to B Road

Adjacent to C Road

Adjacent to Unclassified Road

Controlled Water Risk - High (Ground Water Pollution)

Controlled Water Risk - Medium (Ground Water Pollution)  
Footway  
Public Rights of Way Footpath  
Archaeological Site

#### RELEVANT PLANNING HISTORY

PLA/19891951 PO  
DWELLINGS, SWIMMING POOL & ROAD IMPROVEMENTS  
Refused 22/02/1990

PLA/19900390 PO  
NEW SUPERMARKET WITH ANCILLARY STORAGE AND CAR PARKING (300 SPACES)  
Approved 05/06/1990

PLA/19910057 PM  
NEW SUPERMARKET WITH ANCILLARY STORAGE & CAR PARKING  
Approved 06/06/1991 AW 13/05/1999

PO/16/0916 PO  
Land between Aylsham Road and Greens Road, North Walsham  
Erection of up to 200 dwellings, open space, supporting infrastructure and other associated works (outline application)  
Refused 16/03/2017

#### THE APPLICATION

The application is in outline form and is for development of up to 200 dwellings, open space, supporting infrastructure and other associated works on a site measuring approximately 6.2 hectares (or 7.1 hectares including land required for off-site highway improvements). All matters of detail are reserved for subsequent determination, with the exception of means of access.

The application is a resubmission of previous planning application PO/16/0916, which was refused by the Council at Development Committee on 16 March 2017 for reasons relating to;

- the site being located on land designated as countryside,
- the application failing to deliver a sufficient level of affordable housing (20% provision),
- the public benefits associated with the provision of housing, public open space, highway improvements and the provision of land to allow North Walsham Football Club to relocate, not outweighing the adverse impacts of the development.

This application differs from the previously refused proposals in that it proposes 45% on-site affordable housing provision. The application no longer proposes the gift of land to assist the relocation of North Walsham Football Club.

The application is supported by the following plans / documents:

\*Illustrative Masterplan  
\*Illustrative Landscaping Plan  
\*Land Use Parameters Plan  
\*Planning Statement  
\*Design and Access Statement (incorporating Landscape Assessment and Strategy)  
\*Transport Assessment  
Draft Travel Plan  
Tree Survey and Arboricultural Impact Assessment

Phase 1 Ecology Survey

\*Note on Bryants Heath SSSI

Archaeology Assessment & Geophysical Survey

Flood Risk Assessment including Drainage Strategy and \* Addenda

\*Affordable Housing Statement

\*Statement of Community Involvement

*\*Indicates documents revised/submitted since original application.*

Also submitted with the application is a draft list of Heads of Terms (S.106 Obligation) covering the following:

- Affordable Housing - 45% (up to 90 dwellings).
- Education – financial contribution towards primary school places. (£11,644 per school place required).
- Library services - £75 per dwelling.
- Public Open Space – Provision will be made on site in accordance with the Council's adopted standards and will include compostable dog bins and signage. Off site contribution where required in lieu of on-site provision (for allotments).
- Healthcare – financial contribution towards provision of primary healthcare provision at existing local surgeries (£69,368).
- Green Infrastructure Contribution - £96.50 per dwelling towards improvements to the local trails network.
- The provision of a commuted sum of monies for mitigation and monitoring of potential impacts on European designated sites. - £50 per dwelling
- Contribution towards provision of dog bins (plus commitment to provide a sum of money for their maintenance) and signage at Bryant's Heath SSSI (to be costed).
- Also included is a list of off-site highway infrastructure works. However these would be secured by a planning condition.

#### REASONS FOR REFERRAL TO COMMITTEE

The previous planning application (PO/16/0916) was refused at Development Committee on 16 March 2017.

This application has been called to Committee at the request of the Head of Planning and the Local Ward Member given the local interest in the application and because the application is considered contrary to Development Plan policy.

#### PARISH/TOWN COUNCIL

**North Walsham Town Council** – Continue to object in the strongest terms to the application. The site is not allocated within the current Core Strategy and the Council is meeting its housing targets.

Proposals to integrate pedestrians and vehicle traffic on Aylsham Road is intended for use in highly urbanised areas such as town centres and raises a very serious safety concern and traffic issues remain a major cause for objecting to this application. Integration of vehicles including HGVs and buses with pedestrians on Aylsham Road, which is narrow, with two way traffic, with poor visibility heading out on to a rural route would be highly dangerous. Previously the proposed allocation of the football club site (for residential development) raised serious objections on highway grounds and these traffic concerns have not been addressed.

#### Comments further to the receipt of amended highways plans.

North Walsham Town Council continues to have serious concerns about this application. It raises a number of very serious highways concerns that require further investigation. The larger roundabout at the junction of the two roads is noted as "phase 1" of a bypass that has

not yet been agreed or decided. This remains under discussion in the Local Plan, and it seems presumptuous to refer to it in the terms stated. The dropped-kerb proposal remains a "shared use" area, and that is not acceptable on safety grounds.

The local Safer Neighbourhood Action Panel is gathering evidence relating to the whole area impacted by the proposal. This includes traffic volume and radar speed data from the police and surveys of residents, pedestrians and road users (including bus, haulage and waste collection companies). The output of this work needs to be considered by the Development Committee.

The Council therefore objects strongly to this application, and wishes the Development Committee to take full account of the investigations being carried out by North Walsham Police, the local Safer Neighbourhood Action Panel and local residents with regard to road use and safety issues in the area. It also wishes to note that this application changes nothing in respect of the previous refusal on the grounds that the additional houses are not required in the existing Local Development Plan. As the new Local Plan has yet to be completed, the application must be seen as premature and it should continue to be refused.

## REPRESENTATIONS

A total of 8 separate local residents have objections, raising comments as summarised below;

- Traffic generated from this site will exacerbate already unacceptable highway impacts on the local area to the serious detriment to pedestrian and cycling safety,
- There are unresolved traffic safety issues along Aylsham Road, Station Road and Millfield Road and additional traffic will only exacerbate the hazards,
- A large proportion of traffic will be commuting to Norwich causing safety issues on Station and Millfield Roads as well as congestion at the Norwich Road junction,
- The roads will be overloaded leading to traffic gridlock during rush hours and school drop off/pick up time,
- The junction of Greens Road and Cromer Road is an issue and difficult to negotiate,
- A link road from Cromer Road to Norwich Road and improved infrastructure is important before any more housing is erected in North Walsham,
- This will place even more strain on the restricted facilities and infrastructure that we have (including doctors surgeries, schools, the library, refuse collection rounds),
- North Walsham has limited employment opportunities,
- Where will the new residents work? They will probably drive to Norwich every day,
- The town has poor road links and an inadequate rail service,
- Greens Road is liable to flood after heavy rainfall,
- A radical idea would be to extend North Walsham Football Club into this land creating the much needed pitches and new clubhouse,
- The reasons for rejection of the former plans are valid and still stand,
- The site is not allocated in the current Local Plan,
- Has North Walsham not already met its housing target,
- Development in North Walsham needs to be viewed in a holistic and coordinated way and accompanied by necessary appropriate infrastructure,
- This application is premature and prejudicial to the Local Plan process.

Members are reminded of the context of objection and support which accompanied the previous application PO/16/0916, which was considered by committee only three months ago. The application received one petition containing 90 signatures opposing the development due to serious safety issues for pedestrians and cyclists in the surrounding roads. A total of 21 individual letters of objection were received from local residents.



Any letters of support including a 72 signature supporting petition submitted as part of the previous application related to the offer of land for North Walsham Football Club to relocate to, which does not form part of the current application and therefore is no longer considered to be relevant to this application.

## CONSULTATIONS

**Environmental Health** – Suggest use of a condition to secure a site investigation.

**Norfolk County Council Highways** – The Highway Authority recommends no objection subject to conditions.

Concerns were raised during the original application process that the proposed roundabout at the junction of Greens Road/Aylsham Road did not facilitate any long term aspirations to provide a link road from Cromer Road to the North Walsham Road. Even though these aspirations have no planning status the applicant has addressed these concerns by increasing the size of the roundabout and positioning it so that any future development can come forward. The delivery of the roundabout will be required prior to the 50th occupation.

With regard to improvements on Aylsham Road. The developer has suggested an implied footway (instead of raised platforms at junctions) and removal of centre lining to create an environment more suitable for vulnerable road users. The footway will have a minimum width of 1.0m and will have a low kerb which will give a strong visual clue to drivers and would help to narrow the carriageway and achieve speed reduction in line with the proposed 20mph limit. The road will also be narrowed to 4.8m which means that two cars can pass each other but that a HGV will need to slow and overrun the footway leaving it free for pedestrian use at all other times. The overrunable footway should contrast from the carriageway to deter overrunning. Use of 'balmullo' red aggregate within asphalt behind a dropped kerb achieves this whilst maintaining adequate skidding resistance.

It is proposed to bring Skeyton New Road into a 20mph zone with a 7.5T weight limit as this is also a residential road with parked vehicles. There will also be works to change the priority of Aylsham Road and Station Road. The works to Aylsham Road should be provided prior to first occupation of the proposed development.

Access to the development will be from Aylsham Road and Greens Road and a 3 metre wide footway cycleway will be provided along the whole site frontage connecting the site to Aylsham Road and north along Greens Road to the end of the site frontage.

**Environment Agency** – Previous comments remain with nothing further to add. North Walsham Water Recycling Centre has capacity for the development but capacity issues with the sewage network need to be resolved with Anglian Water. Also suggestions made to the developer to limit the developments impact on the environment and ensure it is resilient to future climate change.

**Natural England** – No objection, subject to appropriate mitigation being secured. As submitted the application would damage or destroy the interest features for which Bryant's Heath SSSI has been notified. The applicants' assertion that the proposals will have no adverse effect on the SSSI are not agreed with.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required and appropriate planning conditions or obligations should be used to secure these measures:

- Secure onsite open space in line with Council Open Space Standards.

- Provide signage on the proposed development site, giving an indication of appropriate walking routes within the area.
- Provide compostable dog waste bins on site.
- Provision of a pedestrian footpath along Aylsham Road linking the proposed development to the Weavers Way
- A financial contribution to the local trails network for provision of:
  - ❖ Enhanced signage, including new signage from the development for local circular walks.
  - ❖ Fido Bins and maintenance for 20 years.
  - ❖ Improvements to Trails access points within the vicinity of the development.
  - ❖ Information on local recreation for new residents to be provided as part of their welcome pack.
- Dog bins and signage at Bryant's Heath.
- Financial contribution of £50 per dwelling towards monitoring and mitigation on Natura 2000 sites.

The conclusion within the Flood Risk Assessment Addenda Sep 2016, that connection to the adjacent watercourse will not be required, due to incorporation of suitably sized soakaways and permeable road and footways is acknowledged. The inclusion of SUDS and an attenuation pond within the site is welcomed. We would expect to see that the proposed development will have no inputs which could impact upon the water quality or quantity to the Skeyton Beck confirmed within any assessment for the final design and secured through appropriate measures.

**Norfolk County Council Public Rights of Way** – links from the development to the PROW (North Walsham FP17) to the northern boundary of the site need to be via roads that the general public have rights to walk along. Increased footfall onto the public right of way will require improvements works to the surface of FP17, which the applicants' submission confirms will be retained and enhanced and should be secured by planning condition. Mechanisms for preventing cyclists from entering the public footpath from the development will be required at detailed design stage.

Public footpath North Walsham FP2 will be directly affected by the realignment of the Aylsham Road/Station Road junction and a side roads order/stopping up order or 'land swap' may be required.

**Norfolk County Council's Historic Environment Service** – No objection subject to a condition requiring site investigation and recording. The proposed development has been the subject of an archaeological field evaluation by geophysical survey which indicated that there are buried archaeological remains on site, but nothing that will affect the principle of development on this site.

**Norfolk County Council's Infrastructure Requirements** - Requires the following financial contributions to be secured via a Section 106 obligation:

- £11,644 per child place - education contributions for Primary sector schools
- £75 per dwelling for IT infrastructure and books at North Walsham Library (£15,000 total)
- £815 per hydrant per 50 dwellings.
- £96.50 per dwelling Green Infrastructure Contribution (£19,300 total)

Response below relates to education provision/contributions and green infrastructure contributions.

Currently there is the following spare capacity in local schools:

North Walsham Infant School & Nursery	-15
North Walsham Junior School	+3
Millfield Primary School	+58
North Walsham High School	+271

However, combined the Norwich Road developments (13/0866 & 15/1010) totalling 276 dwellings will generate the following additional child place numbers:

Early Education	27
Nursery & Primary School	71
High School	47
Sixth Form	5

In terms of education the County Council advises that although there is spare capacity at Early Education and High School levels, taking into account the other permitted developments in North Walsham, a total of 476 dwellings (including the Aylsham Road/Greens Road Site) would generate an additional 124 Primary age sector children (4-11) and there would be insufficient places within the Primary sector to accommodate the children generated from this proposed development should it be approved. Therefore Norfolk County Council Children's Services will be seeking education contributions for the Primary sector schools for 52 children at a cost of £11,644 per child place.

In terms of Green Infrastructure (GI), this should be included within the proposed site in line with local policy. A maintenance/mitigation contribution or commuted sum for new and existing GI features, may be required in addition to the County response, in order to comply with local policy, allowing the local GI network to facilitate the development without receiving negative impact and allowing the development to integrate and enhance the existing network.

#### Specific Comments

FP17 is a narrow, enclosed lane which runs along the northern boundary of the site. Improvements to FP17 could be secured through a condition or agreement. The current indicative layout is not suitable as accesses on to FP17 are via private drives over which no public rights of way will exist.

A contribution of **£19,300** towards improvements of the local Trails network is required (equivalent to £96.50 per dwelling). This contribution will mitigate for increased use as a result of development and will facilitate the provision of;

- Enhanced signage, including new signage from the development for local circular walks.
- Fido Bins and maintenance for 20 years.
- Improvements to Trails access points within the vicinity of the development.
- Information on local recreation for new residents to be provided as part of their welcome pack.

**NHS England** – Previous comments still stand as the total number of dwellings has not been amended. Existing GP practices (Paston Surgery and Birchwood Medical Practice) do not have capacity to accommodate the additional growth resulting from the proposed development. The development could generate approximately 440 residents and subsequently increase demand upon existing constrained services.

The application does not appear to include a Health Impact Assessment (HIA) or propose any mitigation of the healthcare impacts arising from the proposed development.

The development would give rise to a need for improvements to capacity, in line with emerging CCG Estates Strategy, by way of extension, reconfiguration, Information Technology (IT) infrastructure or relocation at Paston Surgery or Birchwood Medical Practice, a proportion of the cost of which would need to be met by the developer.

A developer contribution will be required to mitigate the impacts of this proposal. NHS England calculates the level of contribution required, in this instance to be £69,368. Payment should be made before the development commences and assuming this is provided NHS England would not wish to raise an objection.

**Anglian Water** - The foul drainage from this development is in the catchment of North Walsham Water Recycling Centre that will have available capacity for these flows. Development will lead to an unacceptable risk of flooding downstream, however a development impact assessment has been prepared in consultation with Anglian Water to determine a feasible mitigation solution. A condition is requested requiring compliance with an agreed foul water drainage strategy.

**Architectural Liaison Officer** – As stated previously, at outline stage recommend the development should seek to achieve standards set out by Secured by Design.

**Norfolk County Council Flood & Water Management** – No objection, subject to a condition securing a detailed surface water drainage scheme. The applicant's followed the drainage hierarchy and infiltration testing results have demonstrated favourable infiltration conditions on site.

**Conservation, Design and Landscape (Landscape)** – There are concerns regarding the potential to achieve the desired development of 200 dwellings yet still provide adequate protection for the surrounding trees and/or loss of or encroachment into the public open space (POS). The additional information does not provide any further assurance at this outline planning stage that there may not be conflicts between achieving the desired 200 dwellings whilst protecting the trees (or reducing conflict with the trees) and maintaining adequate POS. Unfortunately this is the nature of outline planning applications, which look achievable at the indicative master planning stage, but when the detail is added at the Reserved Matters stage, with all the relevant infrastructure requirements added etc., it becomes apparent that something has to give.

Regardless of the comments of Natural England, the Landscape Section are of the opinion that the development may result in adverse impacts to the nearby SSSI of Bryants Heath.

**Strategic Housing** - No objection to this application being approved subject to the following requirements being met. The application proposes that 45% of the total number of dwellings would be provided as affordable housing. It is confirmed that there is a proven housing need in North Walsham and that the proposed affordable homes would go some way to meeting some of this need. On this basis, if this application was to be approved, the provision of the affordable housing will be required to be protected through the use of a Section 106 Agreement which also secures a split of rented and intermediate housing which reflects the

Council's requirements. In addition should this application be approved, a condition securing compliance with policy H01 will be required to ensure that the new homes meet wider housing needs for smaller and adaptable homes.

**Countryside and Parks** – Comments from previous application remain unchanged. On-site open space should amount to 1.5 hectares (figure includes allotment provision). Natural play provision (rather than traditional play equipment) should be catered for in this application. It looks like approx. 0.7 hectares of useful open space bisects the development and forms a green corridor. Other open space around the periphery has limited amenity value.

**Norfolk Rivers Internal Drainage Board** – Welcome the indicative drainage design proposal. At detailed stage should a connection to the IDB drainage district be required drainage consent and a one off discharge contribution would be required.

#### HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, refusal of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

#### CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

#### POLICIES

North Norfolk Core Strategy (Adopted September 2008):

Policy SS 1: Spatial Strategy for North Norfolk (*specifies the settlement hierarchy and distribution of development in the District*).

Policy SS2: Development in the Countryside (*prevents general development in the countryside with specific exceptions*).

Policy SS 3: Housing (*strategic approach to housing issues*).

Policy SS 4: Environment (*strategic approach to environmental issues*).

Policy SS 6: Access and Infrastructure (*strategic approach to access and infrastructure issues*).

Policy SS 10: North Walsham (*identifies strategic development requirements*).

Policy HO 1: Dwelling mix and type (*specifies type and mix of dwellings for new housing developments*).

Policy HO 2: Provision of affordable housing (*specifies the requirements for provision of affordable housing and/or contributions towards provision*).

Policy HO 7: Making the most efficient use of land (*Housing density*) (*Proposals should optimise housing density in a manner which protects or enhances the character of the area*).

Policy EN 2: Protection and enhancement of landscape and settlement character (*specifies criteria that proposals should have regard to, including the Landscape Character Assessment*).

Policy EN 4: Design (*specifies criteria that proposals should have regard to, including the North Norfolk Design Guide and sustainable construction*).

Policy EN 6: Sustainable construction and energy efficiency (*specifies sustainability and energy efficiency requirements for new developments*).

Policy EN 8: Protecting and enhancing the historic environment (*prevents insensitive development and specifies requirements relating to designated assets and other valuable buildings*).

Policy EN 9: Biodiversity and geology (*requires no adverse impact on designated nature conservation sites*).

Policy EN 10: Flood risk (*prevents inappropriate development in flood risk areas*).

Policy EN 13: Pollution and hazard prevention and minimisation (*minimises pollution and provides guidance on contaminated land and Major Hazard Zones*).

Policy CT 2: Development contributions (*specifies criteria for requiring developer contributions*).

Policy CT 5: The transport impact on new development (*specifies criteria to ensure reduction of need to travel and promotion of sustainable forms of transport*).

NPPF - National Planning Policy Framework (March 2012). The following policy headings are relevant to the application:

- Achieving sustainable development
- Promoting sustainable transport
- Delivering a wide choice of high quality homes
- Requiring good design
- Promoting healthy communities
- Meeting the challenge of climate change, flooding and coastal change
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment

#### MAIN ISSUES FOR CONSIDERATION

1. Development Plan Policy
2. National Planning Policy Framework and the presumption in favour of sustainable development
3. Affordable Housing Provision
4. Housing density
5. Highway Capacity and Highway Safety
6. Drainage
7. Landscape impacts.
8. Provision of adequate open space and green infrastructure and impacts on designated sites
9. Developer Contributions
10. Material Planning Considerations
11. Future planned growth for North Walsham

#### APPRAISAL

The application site comprises a rectangular area of flat, open agricultural land (6.2 ha.) located on the western edge of North Walsham. It adjoins existing residential development to the east, and North Walsham Town Football Club currently operates from a site directly to the north. To the south and west is agricultural land.

The site lies outside of the defined development boundary for North Walsham (the boundary runs along the eastern boundary of the site) and it forms part of the 'countryside' policy area. Under Policy SS 2 of the Core Strategy housing development is not permitted in the 'countryside' (apart from, amongst other things, 'exception' affordable housing developments and the re-use of existing buildings). The application therefore represents a departure from the development plan.

#### The Applicants' Case

The case put forward by the applicants in support of their proposal can be summarised as follows:

- Policy SS 2 of the North Norfolk Core Strategy, involves the blanket restriction of development in the countryside which is not in conformity with the NPPF, is out of date and can attract only limited weight in decision making.

- The housing target set by the Core Strategy, for the period 2001 to 2021, is based on an evidence base which is now out of date. The level of development proposed by Policy SS 3 does not represent 'objectively assessed housing need', as required by the NPPF, rendering the policy out of date to be afforded minimal weight in planning decisions. Consequently, the settlement boundaries defined by the Core Strategy (to deliver the housing target set by Policy SS3) are also out of date in that they do not represent objectively assessed housing need.
- The Statement of Housing Land Supply & Trajectory, April 2016 in which the Council calculates that it has a 5.6 year supply of housing land, has not been subject to public consultation or any third party scrutiny. It is the applicant's view that the SHMA Central Norfolk Housing Market Assessment (January 2016) is out-dated (it does not reflect the latest 2014-based household projections, which represent the starting point for establishing housing needs) and does not give adequate weight to economic growth trends, the weight which may be afforded to the SHMA is therefore very limited. Furthermore, the supply of housing land identified by the Council is considered optimistic. The applicants question the deliverability of several sites included within the 5 year supply.
- NPPF paragraph 49 requires that housing applications be considered in the context of the presumption in favour of sustainable development. A number of recent appeal decisions provide a clear steer on how paragraph 49 of the NPPF and the presumption in favour of sustainable development is to be interpreted and applied, which may be afforded some weight as a material consideration. They demonstrate that social, economic and environmental benefits must be weighed in the balance when considering if proposals for residential development constitute sustainable development, in accordance with the NPPF.
- Economic benefits include job creation through construction and consumer expenditure, Council Tax revenue (approx £406,308 pa.), New Homes Bonus (approx £1.4m over a 6-year period), net household expenditure (approx £2.35m pa.).
- Social benefits comprise, provision of new housing, including 45% affordable housing, increased population helping to secure long term viability of local services, development which is capable of coming forward quickly and can help to unlock the development potential of the adjacent allocated site, public open space and other contributions towards community infrastructure.
- Environmental benefits comprise, good accessibility to local services and public transport links, potential to improve the contribution the site makes to wildlife and biodiversity, through provision of open space and native planting.
- There will be no adverse impacts which would significantly and demonstrably outweigh the significant benefits that will be delivered.
- The development meets with the NPPF's presumption in favour of sustainable development.
- A new up-to-date Local Plan for North Norfolk is emerging and will have a plan period of 2016-2036. To date, preparation of the emerging Local Plan has been limited to a call for sites exercise (January - May 2016) and Local Plan Workshops with Town Councils. In accordance with NPPF paragraph 216, the emerging Local Plan cannot be afforded any weight as a material consideration at present. As confirmed by National Planning Practice Guidance (paragraph ID: 21b-013-20150327), refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination.

### **Development Plan Policy**

Section 38 of the Planning and Compulsory Purchase Act 2004 sets out a statutory requirement that, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The development plan for North Norfolk comprises:

- The North Norfolk Core Strategy (adopted 2008), and
- The North Norfolk Site Allocations Development Plan Document (adopted 2011)

Core Strategy Policy SS 1 (Spatial Strategy for North Norfolk) sets out a broad indication of the overall scale of development in the District including a settlement hierarchy designed to ensure that the type and quantity of development planned reflects the role and character of each settlement. Core Strategy Policy SS 2 (Development in the Countryside) sets out the range of uses that are generally considered to be acceptable in the countryside policy area.

This proposal for residential development is on land designated as 'countryside' and therefore represents a departure from the development plan, contrary to Core Strategy Policies SS 1 and SS 2.

### **National Planning Policy Framework (NPPF) and the presumption in favour of sustainable development**

The NPPF is a material planning consideration which came into effect in March 2012 and sets out the Government's planning policies and how these are expected to be applied. It emphasises the importance the Government attaches to boosting significantly the supply of housing and the presumption which exists in favour of sustainable development.

#### **It is necessary at this point to clarify the Councils position in terms of whether the development plan is considered to be in conflict with the NPPF**

Paragraph 14 of the NPPF makes it clear that at the heart of the Framework is a 'presumption in favour of sustainable development' and that in terms of decision making this means:

- *approving development proposals that accord with the development plan without delay, and*
- *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless;*
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - *specific policies in the Framework indicate development should be restricted.*

#### **Therefore we next need to consider whether the development plan has up-to-date or out-of-date policies relevant to the determination of this planning application?**

Paragraph 49 (of the NPPF) states that "*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.*"

Of relevance here is a recent Supreme Court judgment (Suffolk Coastal District Council v Hopkins Homes Ltd and Richborough Estates Partnership LLP v Cheshire East Borough Council 2017) in which the Court was asked to provide proper interpretation of paragraph 49 of the NPPF. It concluded a narrow interpretation of 'relevant policies for the supply of housing', limited to policies dealing only with numbers and distribution of new housing and by which acceptable housing sites are identified and the five-years supply target is to be achieved. Any shortfall in housing supply policies does not render other parts of the plan that serve a different purpose out of date, such as those which constrain land for housing development (settlement boundaries or countryside policies) but appropriate weight would need to be afforded to those policies having regard to an absence of a five-year housing land supply.



Can the Council demonstrate a five-year supply of deliverable housing sites and consequent policy implications?

Paragraph 47 (of the NPPF) requires local planning authorities to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing and in doing so, identify annually a supply of deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5%. Where there has been a record of persistent under delivery of housing the buffer should be increased to 20%.

A very relevant, recent appeal decision dated 05 July 2017, relating to development proposed at Land at Creake Road and Moor Lane, Sculthorpe (the Sculthorpe Appeal) considers the Councils housing land supply position and deliverability of allocated sites in detail and is attached as **Appendix 1**. The Inspector "finds that the Council can convincingly demonstrate at least a 5 year supply of deliverable housing sites", with a supply of 5.85 years quoted by the Inspector, including a 20% buffer and taking into account the objectively assessed needs (OAN) for market and affordable housing in the housing market area.

The Inspector in the Sculthorpe Appeal concludes that demonstration of at least a 5 year supply of deliverable housing sites "means that, in the terms of the NPPF paragraph 49, relevant policies for the supply of housing are considered to be up to date so that the 4th bullet point of the NPPF paragraph 14 is not engaged. In these circumstances the Suffolk Coastal and Cheshire East Supreme Court judgement effectively endorses the plan-led system, confirming the primacy of the development plan and the policies through which local people can shape and protect their environment while accommodating necessary development. In accordance with NPPF paragraphs 11 and 12, the appeal must be determined in accordance with the up-to-date development plan unless material considerations indicate otherwise".

The Inspector in the Sculthorpe Appeal also considered in more detail the implications for the specific relevant strategic policies and found that, "policy SS 1 concerns the supply of housing and accords with the NPPFs core principle of genuinely plan led development and carries significant weight" in decision making. While "policy SS 2 is not a housing supply policy and is intended to protect the countryside", again consistent with the NPPF and is therefore "a policy which carries significant weight".

The applicants' have chosen not to provide an update of their position subsequent to the Sculthorpe appeal decision being released and maintains that "the benefits of the proposals outweigh the harm".

Officers are of the view that the recent Sculthorpe appeal decision is an up to date decision which has direct relevance to this application when considering policy implications relating to five year housing land supply and reinforces the Councils position taken in relation to this and the previously refused planning application PO/16/0916. The recent appeal decision and Supreme Court judgment has clarified the supremacy of the development plan and only in the absence of a five year supply of deliverable housing sites can housing supply policies be considered out of date. The appeal Inspector also concludes that "proposing development in a countryside location which conflicts with development plan policies SS 1 and SS 2 is a particularly weighty consideration against the proposals". These conclusions are considered to be directly comparable to the determination of this application.

Therefore any planning decision made in relation to this proposal would need to be made under Section 38 of the Planning and Compulsory Purchase Act 2004 and paragraph 11 and 12 of the NPPF which sets out that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The proposal represents a departure from the development plan of significant weight as it is contrary to Core Strategy Policies SS 1 and SS 2.

### **Affordable Housing Provision**

In terms of the Council's policies on affordable housing provision, as the site is located in the countryside, the relevant Core Strategy policy is Policy HO 3 (Affordable Housing in the Countryside). Under this policy only schemes comprising affordable housing are acceptable in principle in the countryside. However, given that this is clearly not the intention of this application, which is for a mix of both market and affordable housing it would be more appropriate to consider it against Policy HO 2 (Provision of Affordable Housing) which requires 45% affordable housing provision in the district's towns, subject to viability. In the absence of a viability assessment it is considered that the 45% figure should be used in assessing this application.

The applicants' Affordable Housing Statement identifies Policy HO 2 as the relevant policy relating to affordable housing provision on this site and proposes 45% affordable housing provision on site (up to 90 units) in accordance with the policy requirements.

The proposed mix of units is not known at this stage, although the applicants have indicated that a mix of 2, 3, 4 and 5 bed dwellings will be provided. The detailed breakdown of dwelling mix and type, including the proportion of affordable rented and intermediate tenures will be determined as part of a subsequent reserved matters application.

This revised submission with a greater amount of affordable housing is now in accordance with Policy HO 2 of the Core Strategy.

### **Housing density**

The submitted Design and Access Statement states that the site could accommodate up to 200 units at an approximate gross density of 32 dwellings per hectare (dph). It also states that the development will incorporate a substantial portion of public open space, but does not commit to a specific amount of land or percentage of the site due to the outline nature of the application.

The on-site open space requirement for the development proposed has been estimated to be around 1.2 hectares (excluding allotment provision) and various consultees, including Natural England have stressed the importance of providing a policy compliant amount of open space on-site to cater for the needs of residents and to reduce the potential for adverse impacts on nearby sensitive sites (including Bryant's Heath SSSI). The applicant's have previously carried out an exercise in which various different 'realistic' dwelling mixes (where the proportions of different house types/sizes are changed) have been used to determine the amounts of policy compliant open space that could be required for a development of 200 dwellings. They found that the amount of on-site open space (excluding allotments) required to meet with the Councils standards is not likely to exceed 1.35 hectares. A 'Land Use Parameters Plan' has been produced which incorporates a minimum of 1.4 hectares of on-site open space (public park/childrens play/natural green space) of a layout which takes into account Natural England comments in relation to dog walking provision.

Taking into account on-site open space provision (1.4 hectares) the developable area of the site is reduced to around 4.8 hectares and a development of approximately 200 dwellings would represent a net density of 42 dwellings per hectare (dph). The applicant's consider this to be an appropriate density given that they have calculated the surrounding densities of existing developments to the east of the site which range between 26-89 dph, equating to an average net density of 45dph. However, the total of 200 dwellings could prove to be high considering the need to also incorporate within the development, private amenity space for each dwelling, connecting roads and paths etc. as well as surface water drainage features. Whilst the application is in outline form only and the 200 dwellings should be taken as an upper limit of development on the site, in granting permission the Local Planning Authority would need to be content that the site could accommodate the amount of development proposed without resulting in adverse impacts.

The applicants have previously been asked to consider providing details of matters relating to 'layout' and 'landscaping' of the development at this stage to demonstrate to officers that 200 dwellings can be achieved on the site while meeting other policy requirements. Although not agreeable to this approach the applicant's have made attempts to demonstrate that even when considering an outline planning application on this site, the use of planning conditions to secure at least the open space as identified on the 'Land Use Parameters Plan' and restrict the dwellings proposed at reserved matters stage to no greater than 2.5 storey in height, then it is reasonable to assume that the site could accommodate up to 200 dwellings and the amount and type of green space required to make the development acceptable in planning terms while limiting the impacts of the development on the wider countryside in this edge of settlement location.

Officers consider that, through the use of suitably worded restrictive condition(s) and further assessment of a detailed scheme at reserved matters stage against the relevant policies of the development plan, there are no substantive grounds to resist the scheme setting an upper limit of 200 dwellings to be accommodated on the site. However it would be for the applicant at reserved matters stage to demonstrate in detail how this could be achieved without resulting in adverse effects, including on Bryant's Heath SSSI.

### **Highway Capacity and Highway Safety**

This is an outline application with all matters of detail reserved with the exception of access. The supporting documentation shows two points of vehicular access to the site, one to the Greens Road frontage and one to the Aylsham Road frontage.

The applicants in discussion with the Highway Authority, have put together a revised package of off-site highway improvement works that are required in order to mitigate the impact of the development and for the application to be considered acceptable. The off-site highway works consist of;

- Improvements to Aylsham Road consisting of;
  - a reduced speed limit of 20mph, and creation of an environment more suitable for vulnerable road users,
  - removal of centre lining and provision of an implied footway (an over runnable footway of a minimum 1.0 metre width with low kerb (no higher than 25mm) and contrasting colour),
  - the road will be narrowed to 4.8 metres allowing two vehicles to pass at low speeds while HGVS will need to slow and overrun the footway.
- Skeyton New Road will have a 20mph limit and 7.5T weigh limit,
- Change of priority at the Aylsham Road and Station Road junction,
- Provision of a four arm roundabout of increased size and revised positioning (to accommodate any future development in the area) at the junction of Greens Road/Aylsham Road and Tungate Road,
- Footway provision to the Rossi sporting facility on Tungate Road.

In addition a footway/cycleway will be provided along the whole site frontage connecting the site to Aylsham Road and north along Greens Road. The report concludes that the proposed development will provide highway improvements to the local highway network and the development can be readily accessed on foot, by bicycle and by local public transport services.

The Committee will note that much of the local concern received to this and the previous application, relates to increased traffic using the local road network and the inadequacy of that existing network to cope with additional development, including concerns for the safety of pedestrians and cyclists that use sections of Aylsham Road. Although the previous package of highway works were considered acceptable by the Highway Authority, modifications have been made and a slightly different approach adopted to the Aylsham Road improvements as a

result of the concerns raised by local residents and further discussion with the Highway Authority. An implied footway with a low kerb is proposed rather than the imprint footway proposed previously. Residents that have responded to this application still have concerns regarding whether the measures proposed along Aylsham Road are adequate to provide safety or reassurance to pedestrians.

Also of note is the increased size and revised positioning of the four arm roundabout at the junction of Greens Road/Aylsham Road and Tungate Road, which has been revised in an attempt to address concerns raised by local residents and Members regarding the impact of the development on a potential North Walsham link road. At a stage when there are no plans or policies in place to safeguard delivery of a future link/relief road the applicants are attempting to future proof the roundabout by ensuring there is sufficient/extra capacity to support traffic using a future link road, although its provision can be attributed very limited weight given the lack of policy provision in relation to this matter at this stage.

The Committee will note that the Highway Authority has not raised an objection to the application, subject to securing the provision of the off-site highway works (as set out above) at appropriate trigger points and subject to a number of planning conditions. These works are a necessary requirement to ensure that development on the application site is acceptable and to mitigate impacts of this development on the local highway network.

It should also be noted that aside from the proposed off-site highway improvement works there is a public right of way that runs along the northern boundary of the site and a public path, Coronation Walk that exists along the eastern site boundary. At the detailed layout stage it is important that connections are made from the development in to these existing public paths which provide links to the railway station and also to Queensway to the east of the site where continuous footways exist allowing pedestrians to walk on existing dedicated footways into the town centre.

Therefore, subject to securing the off-site highway works and the imposition of conditions, the proposal would accord with Policies CT 5 and CT 6 of the Core Strategy.

### **Drainage**

Surface water drainage has been raised as a concern locally due to known issues in the area to the west of the site. An initial Flood Risk Assessment and outline Drainage Strategy has been supplemented with an Addenda document which includes the results of infiltration testing, which determines infiltration as a viable means of dealing with surface water on this site and therefore connection to Skeyton Beck will not be required. As a result of this the Lead Local Flood Authority and the Internal Drainage Board have no objection to the proposals, subject to a detailed surface water drainage scheme being secured by planning condition.

With regards foul drainage a development impact assessment has been prepared in consultation with Anglian Water to determine a feasible mitigation solution to capacity issues in the sewage network that pose risks of flooding downstream. Anglian Water are content that a planning condition can be used to secure compliance with an agreed drainage strategy.

### **Landscape Impacts**

The Councils Landscape Officer generally concurs with the approach to the design of the landscape strategy, particularly the enhancement of landscape buffers incorporating native tree and hedgerow planting, around the perimeters of the site. Whilst in principle the approach to the landscape strategy is appropriate, it remains to be seen as to whether the detail is acceptable or sufficient, as landscaping is a reserved matter.

From the indicative master plan it would appear that there is sufficient scope within the site to achieve the desired 200 dwellings without compromising the majority of trees. Officers are however concerned that due to the outline nature of the proposals the detailed layout at

reserved matters stage could potentially lead to greater conflicts with the trees around the edges of the site. Until the actual detailed layout is submitted there always remains the possibility that 200 dwellings may give rise to additional conflicts with trees or the loss of, or encroachment into, the proposed public open space and, as discussed in the 'Housing Density' section above, measures can be put in place to ensure that the open space to be provided on site should be adequate to meet with local policy requirements without resulting in adverse effects, including on Bryant's Heath SSSI.

The land to the west of North Walsham is Grade 2 agricultural land, which is land of high quality agricultural value. The NPPF states (para 112) that consideration of its loss should be given when development is demonstrated to be necessary. The applicants suggest that the loss of approximately 7.1ha of Grade 2 agricultural land would not result in a 'significant' loss and that some greenfield/agricultural land will need to be developed to deliver the housing needs of the District. However, given that the Council can demonstrate a deliverable five-year housing land supply, loss of the agricultural land would only occur if the proposal were to be approved at which point appropriate weight would need to be given to any public benefits in favour of the proposal to outweigh the loss of Grade 2 agricultural land.

### **Provision of adequate open space and green infrastructure and impacts on designated sites**

The requirement for on-site open space for a development of this size would be in the order of 1.2 hectares (estimated figure, excluding allotments), depending on the dwelling mix proposed at reserved matters stage. However, due to the outline nature of the application it is not possible to confirm the exact amount of on-site open space that would be required or delivered as part of the development at this stage.

Natural England, Norfolk County Council and the District Councils Landscape Section have stressed the importance of the development delivering on-site open space in accordance with the Councils adopted open space standards. In part the importance of sufficient on-site open space provision relates to the need to provide sufficient multifunctional green space to encourage residents to walk and exercise their dogs on-site rather than be forced to use sites elsewhere which may result in adverse impacts to designated sites.

As set out in the 'Housing Density' section above an illustrative masterplan and 'Land Use Parameters Plan' have been provided which indicate provision of 1.4 hectares of open space bisecting the development and forming a green corridor which the applicants suggest is useable for dog walkers, as is a continuous green corridor around the perimeter of the site. 1.4 hectares of on-site open space is considered by the applicant's to represent the maximum likely requirement, tested by considering 'realistic' dwelling mixes. Play provision also needs to be catered for on the application site and such provision could conflict with other open space users especially dog walkers, if not given adequate consideration at reserved matters stage. However, the use of suitably worded conditions could ensure that at least an area of on-site open space as shown on the 'Land Use Parameters Plan' will be provided, with further opportunity to assess the adequacy of the amount and layout of the open space at reserved matters stage.

In addition Norfolk County Council request a financial contribution towards improvements of the local trails network in relation to circular walks in the area, through provision of enhanced signage, improved access points to trails, dog bins and information packs for new residents. This contribution will mitigate for increased use as a result of the development, allowing the local Green Infrastructure network to facilitate the development without having a negative impact and equally, allowing the development to integrate and enhance the existing network.

The application site lies within 1.2 km of Bryant's Heath, Felmingham Site of Special Scientific Interest (SSSI) which is easily accessible via public footpaths forming a circular walk to the SSSI for existing and future residents, including dog walkers. The habitats for which the SSSI is designated may be sensitive to trampling and due to the required low nutrient status

may be sensitive to nitrification from dog faeces. There is a concern that increasing the number of residential properties within walking distance of the SSSI could encourage greater numbers of visitors to the SSSI which in turn could lead to trampling of the vegetation communities and enrichment through dog fouling. This could lead to the degradation of special interest features of the SSSI, contrary to paragraph 118 of the NPPF.

Natural England has reiterated their last consultation response (dated 19th December 2016) which stated that 'as submitted, the development would damage or destroy the interest features for which Bryant's Heath SSSI has been notified'. However, subject to a range of mitigation measures being provided, Natural England is of the opinion that any adverse impacts would be satisfactorily addressed.

Below is a summary of the mitigation measures proposed by the applicant's and previously agreed by Natural England:

#### On-site mitigation

- A quantum of **on-site** open space provision sufficient to meet the Council's adopted standards for parks, play space and green space, including the provision of opportunities for natural play. (The applicant's have confirmed that they would be willing to accept a condition requiring the Council's required quantum for parks, play and green space provision to be met in full on site).
- As requested by Natural England, opportunities for exercising dogs, compostable dog bins and signage will be provided and maintained within the **on-site** open space.

#### Off-site mitigation

- Off-site open space contributions will be agreed with the Council, including a contribution towards the provision of allotments.
- Green Infrastructure - £94.10 per dwelling towards local trails network,
- Enhanced signage, including new signage from the development for local circular walks.
- Dog Bins and maintenance for 20 years on the local trails.
- Improvements to Trails access points within the vicinity of the development.
- Information on local recreation for new residents to be provided as part of a welcome pack (including highlighting the sensitivities of Bryant's Heath).
- Contribution towards provision of dog bins (plus commitment to provide a sum of money for their maintenance) and signage at Bryant's Heath SSSI.
- Impact on European Sites Monitoring Contribution - £50 per dwelling.

When making a determination that could affect a Site of Special Scientific Interest (SSSI) it is important to consider paragraph 118 of the National Planning Policy Framework which makes clear that *'proposed development...likely to have an adverse impact on a Site of Special Scientific Interest...should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest.'*

Officers consider that, only subject to the mitigation works being secured and delivered is the development unlikely to have an adverse effect on Bryant's Heath SSSI and therefore the development proposed is unlikely to be considered contrary to Paragraph 118 of the NPPF.

#### Developer Contributions

In accordance with Core Strategy Policy CT 2 a development may be required to provide any necessary provision or improvements to existing infrastructure, services, community facilities or open space necessary to make the development acceptable. Relevant consultees have advised the level of contribution/provision necessary and contributions are required for the following:

- Affordable Housing – 45%
- Education - £11,644 per primary school place required,
- Libraries - £75 per dwelling,
- Primary Healthcare Provision (NHS) - £69,368,
- Green Infrastructure - £96.50 per dwelling towards local trails network,
- Open space – off-site contribution where required in lieu of any on-site provision, for example for allotment provision,
- Contribution towards provision of dog bins (plus commitment to provide a sum of money for their maintenance) and signage at Bryant's Heath SSSI (to be costed)
- Impact on European Sites Monitoring Contribution - £50 per dwelling.

The applicants have confirmed in their draft section 106 heads of terms that the necessary contributions required by all relevant consultees will be provided.

### **Material Planning Considerations**

Part of the applicants' case is that there are no adverse impacts of the development which would significantly and demonstrably outweigh the significant benefits that will be delivered.

A case has been put forward by the applicants that the proposal will facilitate allocated development (through highway works that are required in order for this application in itself to be considered acceptable). A basic proposition behind the application is that the grant of a planning permission would deliver highway improvements (some which require land owned by the applicants) which are not only sufficient to support the current application but would improve road safety along Aylsham Road and also allow for the delivery of the allocated development site adjacent, namely the existing football club site, allowing increased development capacity. It is suggested that the increased viability derived from the increased development capacity can support the relocation of North Walsham Football Club. However, achieving increased development capacity on the adjacent allocated site has not been tested and would be dependent on many other factors and not just highway improvement works. Also the relocation of the football club from its current site is greatly dependant on finding a suitable alternative site which is fit for purpose and in an appropriate location, which it has not been possible to do so to date. Therefore the weight to be attributed to the suggested facilitation of delivery at an increased capacity of an allocated site can only be very limited.

Finally, it is acknowledged that certain economic benefits will accrue from the proposal in the form of Council Tax and New Homes Bonus revenue, together with increased expenditure in the local economy by future residents and increased jobs in the construction industry. However, these benefits apply to all housing developments and on their own are not considered sufficient reasons to grant planning permission in the case of a proposal such as this which is contrary to development plan policy.

### **Future planned growth for North Walsham**

It is still the case that the Local Plan review is at a very early stage with the 'call for sites' complete and assessment of options underway. Given the role that North Walsham plays as the largest town in the district and its role in providing housing and infrastructure growth it needs to be acknowledged that any opportunistic, piecemeal development such as this could have an unintentional impact on the long term development of the area.

Whilst it has to be recognised at this stage that the Committee can afford little weight to the new Local Plan, the likely required future scale of growth in North Walsham coupled with the desire for future development to enable delivery of improvements to infrastructure mean that it is important that piece-meal development in locations outwith the current Core Strategy do not serve to undermine future growth aspirations or place undue burdens on subsequent growth to deliver more infrastructure from less housing growth.

Whilst there is nothing to suggest that, at an appropriate time in the future, the site in question might not be considered as part of future growth aspirations for North Walsham, at that time development of the site can be considered in the knowledge of the amount and type of infrastructure that are required on the back of such development to help meet the future needs of the town including its residents and businesses.

The applicants have carried out further work in an attempt to demonstrate that the development proposed and the infrastructure that is to be provided (in particular the new roundabout at the junction of Greens Road/Aylsham Road and Tungate Road) is not likely to compromise the delivery of a potential future North Walsham link road, which may be required to deliver future growth in North Walsham. The proposed roundabout has been increased in size with revised positioning in an attempt to demonstrate that the roundabout will not compromise the potential link road but could also represent the first phase of such a link road. The applicants' additional efforts are appreciated but can be attributed very limited weight given the lack of policy provision in relation to this matter at this stage.

### Conclusions

Section 38 of the Planning and Compulsory Purchase Act 2004 sets out a statutory requirement that, applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This proposal for residential development is on land designated as 'countryside' and therefore represents a departure from the development plan, contrary to Core Strategy Policies SS 1 and SS 2.

Notwithstanding the applicants' contention that their proposal should be approved under paragraph 14 of the NPPF with the added weight of the presumption in favour of sustainable development, Officers remain of the view that this presumption in favour of sustainable development does not apply in relation to this proposal given that a five-year land supply can be convincingly demonstrated by the Council, which would mean that any planning decision made in relation to this proposal would need to be made under the normal planning balance. This is a position which has very recently been confirmed at appeal.

It is acknowledged that the proposal offers certain economic, environmental and social benefits in the form of additional housing, public open space and highway infrastructure improvements which could allow increased development capacity on an adjacent allocated site and these represent 'material considerations' in the determination of the application. However these benefits are of limited cumulative weight but, when making the planning balance, are outweighed by the conflict with the development plan.

The NPPF represents Government guidance and is a material consideration in the determination of planning applications, but does not supersede the primacy of the development plan in this case. The application is contrary to development plan policy, the Council can demonstrate a 5 year supply of land for housing and therefore the development plan should prevail.

Accordingly it is concluded that there are no material considerations sufficient to indicate that the application should be determined otherwise than in accordance with the development plan. Refusal is therefore recommended.

### **RECOMMENDATION: REFUSE planning permission for the following reasons:**

The District Council adopted the North Norfolk Core Strategy on the 24th September 2008 and the North Norfolk Site Allocations Development Plan in February 2011. The National Planning Policy Framework was published in March 2012. Collectively these provide the context for the determination of planning applications in accordance with Section 38 of the Planning and Compensation Act 2004.



The Core Strategy includes the following applicable policies:

SS 1 - Spatial Strategy for North Norfolk

SS 2 - Development in the Countryside

In the opinion of the Local Planning Authority any benefits offered by the development are outweighed by the conflict with the development plan policies in the following respects:

1) The proposal comprises residential development on a site which is located outside of the established settlement hierarchy and on land designated as countryside under Policy SS 1 of the adopted Core Strategy. Policy SS 2 prevents new housing development in the countryside apart from certain limited exceptions which do not apply in this case.

2) Whilst the proposal does include a number of public benefits against which appropriate weight has been afforded including the provision of additional housing, including a policy compliant amount of affordable housing (and associated New Homes Bonus and additional Council Tax income), public open space and highway infrastructure improvements (including an increased capacity roundabout), these public benefits do not attract sufficient weight collectively to outweigh the identified conflict with the development plan.

(3) **LESSINGHAM - PF/17/0441 - Erection of extension to side following demolition of garage & utility room; Chy-an-mor, The Street for Mr Lewis**

**Target Date: 21 June 2017 (Extension of time to 7 August 2017)**

Case Officer: Miss J Hodgkin

Householder application

#### CONSTRAINTS

Countryside

Flood Zone 2 - 1:1000 chance

Flood Zone 3 + Climate Change

#### RELEVANT PLANNING HISTORY:

None Relevant.

#### THE APPLICATION

Permission is sought for the demolition of an existing garage and utility and replacement with a single storey side and rear extension to the north elevation.

#### REASONS FOR REFERRAL TO COMMITTEE

At the request of Cllr R Price having regard to the proposal's impact on light levels to the neighbouring dwelling, over-development of the site and the negative visual impact on the row of near identical bungalows in the wider street scene.

#### PARISH COUNCIL

Lessingham Parish Council object on the following grounds:

- Unacceptable reduction in light to adjacent property, specifically onto the neighbour's solar panels due to the proposed pitched roof
- The side door impacts the privacy of the neighbours.
- Concerns have been raised regarding drainage and the PC would ask for a detailed Waste Water Management Statement to be provided by applicant.
- Concerned about the character of the village being altered.
- The building appears to have more habitable rooms than the flooding area recommendations state.

NB. The original comments made still stand, there is nothing in the amendments that has addressed the parish's original concerns.

## REPRESENTATIONS

To date, 4 representations have been received, objecting to the application and raising the following concerns:

- Proposed extension would overshadow the adjacent bungalow, affecting room temperature with a resulting negative financial impact.
- Proposal will reduce the effectiveness of the solar panels on the neighbouring property, resulting in financial consequences.
- The proposal would be sited close to the shared boundary, resulting in an overbearing form of development with a negative impact on the neighbouring dwelling. The change of use of the garage and the proposed utility window and door would give rise to privacy issues i.e. noise and overlooking.
- The proposed extension will alter the character and appearance of this row of bungalows.
- Devaluation of property.
- The timber cladding is not in keeping with the appearance of the surrounding properties.
- Inadequate parking provision.
- The adjacent property's drains interconnect with Chy-An-Mor. There is concern that the extra habitable space will increase pressure on existing drainage.
- The submitted plan is incorrect, failing to show an existing bedroom in the rear roof space and associated rear window.
- Concerns that the side extension will be developed into an upstairs room with side windows overlooking the neighbouring property.

## CONSULTATIONS:

None

## HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, **approval** of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

## CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

## POLICIES

North Norfolk Core Strategy (Adopted September 2008):

Policy SS2: Development in the Countryside (*prevents general development in the countryside with specific exceptions*).

Policy HO 8: House extensions and replacement dwellings in the Countryside (*specifies the limits for increases in size and impact on surrounding countryside*).

Policy EN 2: Protection and enhancement of landscape and settlement character (*specifies criteria that proposals should have regard to, including the Landscape Character Assessment*).

Policy EN 4: Design (*specifies criteria that proposals should have regard to, including the North Norfolk Design Guide and sustainable construction*).

Policy EN 10: Flood risk (*prevents inappropriate development in flood risk areas*).

Policy CT 5: The transport impact on new development (*specifies criteria to ensure reduction of need to travel and promotion of sustainable forms of transport*).

Policy CT 6: Parking provision (*requires compliance with the Council's car parking standards other than in exceptional circumstances*).

## NATIONAL PLANNING POLICY FRAMEWORK

### Section 7 – Requiring good design

#### MAIN ISSUES FOR CONSIDERATION

- 1) Principle of Development
- 2) Design and Appearance
- 3) Impact on Residential Amenity
- 4) Development and Flood Risk
- 5) Other Matters

#### APPRAISAL

##### **1. Principle of Development**

The proposed development is considered to be acceptable and compliant with the aims of Policy SS 2 of the adopted Core Strategy which allows extensions and alterations to existing dwellings in the Countryside subject to compliance with other policies in the North Norfolk Core Strategy.

##### **2. Design and Appearance**

The original design submitted was considered over dominant and to result in an unacceptable overshadowing impact onto the side elevation of the neighbouring property, known as 'Valhalla', to the north. Furthermore, the proposed utility room window was deemed unnecessary as the proposed half glazed door would allow adequate light into the utility room.

An amended plan was received on 7th June 2017 (drawing number: 001 Rev. A) which incorporated the following amendments:

1. A hipped roof over the side element of the extension (instead of the originally proposed pitched roof) and a reduction in the ridge height by 0.6 metres.
2. The side window serving the utility room was omitted.

On 10th July a further amended plan (drawing number: 001 Rev.B) was received showing the proposed timber cladding of the side extension changed to brick to match the existing dwelling as requested. The matching brick is considered more appropriate and will have less of a visual impact. This material will be secured by condition if an approval is granted.

The amended Plan (drawing number: 001 Rev.B) also shows the ridge height of the hipped roof reduced further, by 1 metre in total from the originally proposed height. The change to the roof form, together with the reduction in height of the ridge, ensures the proposed side extension is visually subordinate to the host dwelling. Additionally, when viewing the property from the front, the hipped roof slope reflects the roof form of the existing dwelling. Further, the alteration to the roof form helps to reduce the overall massing and scale of the side extension, removing the impact on the neighbouring dwelling.

In terms of scale, the proposal is the same width as the existing garage and entrance hall (4.8m) and 4.3 metres longer than the total length of the garage and utility room. The proposed hipped roof is 2 metres higher than the existing flat roof.

The host dwelling sits in a row of nearly identical bungalows in The Street. It is acknowledged that no other property in this row of dwellings has extended in the same manner as proposed under this application, but the design, scale and materials are considered acceptable and not to give rise to a significantly detrimental impact to the wider street scene as to warrant refusal of the application.

The amended proposal is considered acceptable in terms of design and scale, is considered proportionate in relation to the host dwelling, and would not result in a development that would be overly prominent within the street scene or visually detrimental in the wider area. Officers consider that it would be difficult to justify a refusal based on the impact of the scheme on the character and appearance of the street scene or the wider area.

Therefore, the proposal is considered to comply with policies HO8, EN 2 and EN 4 of the North Norfolk Core Strategy and Section 7 of the NPPF.

### **3. Residential amenity**

Concerns have been raised in respect of the proposal's impact on the residential amenity of neighbouring dwellings, in particular, the property 'Valhalla' which is immediately adjacent to the north.

It is not considered that the proposals will result in any detrimental impact to 'Valhalla'. The existing two metre high boundary fence already provides an element of overshadowing onto Valhalla's side elevation. Officers consider that the shadowing created by the proposed extension would be no more than exists from the current boundary fencing.

Objections have been raised regarding the potential impact of the proposed extension on the solar panels sited on Valhalla's south-west facing roof slope. Officers consider that overshadowing will be no worse than exists already due to the boundary fencing. In any case, loss of light to the solar panels is not a material planning consideration.

In terms of privacy, the existing 2 metre high close-boarded fence along the shared boundary with the adjacent property 'Valhalla' would screen the proposed half-glazed side door. Overlooking is not considered to be so significant as to warrant refusal of the application.

Regarding the proposal's potential noise impact, it is not considered that this would be at such a significant level that would be detrimental to the amenity of the neighbouring residents concerned, or to warrant refusal of the application.

It is therefore considered that the revised scheme would not have a significant detrimental impact on the privacy or light of the neighbouring dwelling and the proposals are considered to be in accordance with the requirements of Policy EN4 of the Core Strategy.

### **4. Development and Flood Risk**

As property lies within a Flood risk Zone 2 Area, a Flood Risk Assessment was submitted stating that the floor levels within the proposed development will not be set lower than the existing levels and flood proofing has been incorporated where appropriate. Therefore the proposal is considered to comply with Core strategy Policy EN 10.

### **5. Other Matters**

Regarding the concerns over the plans failing to show a rear upstairs bedroom and associated window, the applicant has explained that this has been deliberately omitted from the plans as the bedroom and staircase do not comply with Building Regulations and the applicant intends to remove these. As the ridge height of the proposed extension has been reduced, there would

not be sufficient head room for an upstairs bedroom to be created within the roof of the proposed extension.

It is considered that the existing parking provision is acceptable.

The devaluation of property is not material planning consideration.

### **Conclusion**

The application is considered to be appropriate in terms of its design and scale, and is not considered to result in a significant detrimental visual impact to the street scene or wider area, or any impact to the amenity of neighbouring properties. Therefore the proposal is considered to be in accordance with the relevant Development Plan Policies and is recommended for approval.

### **RECOMMENDATION: Approve, subject to the following conditions, and any others as deemed necessary by the Head of Planning:**

1. Time Limit
2. In accordance with submitted plans
3. Materials as submitted and to match the existing dwelling

- (4) **OVERSTRAND - PF/17/0222 - Formation of children's play area and erection of play equipment to rear of public house; White Horse, 34 High Street for Mr Walsgrove**

### **Minor Development**

**Target Date: 10 July 2017**

Case Officer: Miss C Ketteringham

Full Planning Permission

### CONSTRAINTS

Unclassified Road

Residential Area

Within Settlement Boundary

Conservation Area

Coastal Erosion Constraint Area

Coastal Erosion Risk Area - 100 years

### RELEVANT PLANNING HISTORY

PLA/20090931 PF

White Horse Public House, 34 High Street, Overstrand

Erection of single-storey rear extension, conversion of barn to restaurant and retention of umbrella to front of premises

Approved 28/10/2009

NMA1/09/0931 NMA

34 High Street, Overstrand, Cromer, NR27 0AB

Non-material amendment request to permit revisions to fenestration, roof height and projection and materials

Refused 05/07/2010

PF/10/1045 PF

White Horse Public House, 34 High Street, Overstrand, Cromer, NR27 0AB

Retention of rear extension

Approved 31/01/2011

PF/12/0803 PF

White Horse, 34 High Street, Overstrand, CROMER, NR27 0AB

Removal of condition 2 of planning permission reference: 10/1045 to permit retention of slate roof covering

Approved 26/09/2012

## THE APPLICATION

Planning permission is sought for the erection of two timber climbing frames in the garden of the public house. The design is rustic and similar in nature to those built in adventure parks, but scaled down

Climbing Frame 1 is a toddlers play area consisting of a sandpit, a ramp up to a raised walkway and covered platform leading to a slide. The structure is 6.5m long, with the height of the platform being 1m above ground level. The walkway is slightly higher at 1.2m above ground level. The covered platform has a total height of 3.7m.

Climbing frame 2 is much bigger, consisting of a series of raised walkways with a covered deck at either end. The climbing frame includes features such as a climbing wall, stepping stumps and balance beam. The walkways vary in height above ground from 1.1m to 2.6m and to the top of the climbing wall it is 3m. At several points the climbing frame is less than 1m from the boundary fences to the north and east. The height to the top of the lower of the two covered decks is 3.8m and to the top of the taller covered deck is 4.7m.

## REASONS FOR REFERRAL TO COMMITTEE

At the request of Councillor A Fitch-Tillett having regard to the damage to the local economy and the loss of jobs if the application were to be refused.

## PARISH/TOWN COUNCIL

Overstrand Parish Council - no objection

## REPRESENTATIONS

Three letters of objection have been received from local residents objecting on grounds of;

- Overlooking and loss of privacy.
- Noise

## CONSULTATIONS

Environmental Health – Objects:

Concerns regarding the impact of noise upon the neighbouring dwellings as a result of the height of the climbing frame and the heights that users (children) would be at when playing.

Conservation and Design Officer

The climbing frames are elaborately detailed structures which would be conspicuous in the Conservation Area. Given that the existing climbing frame is readily visible from public vantage points within the Overstrand Conservation Area it is difficult to see how a larger structure would be compliant under s72 of the Planning (Listed Buildings & Conservation Areas), Act 1990.

## HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, **refusal** of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

#### CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

#### POLICIES

North Norfolk Core Strategy (Adopted September 2008):

Policy EN 4: Design (*specifies criteria that proposals should have regard to, including the North Norfolk Design Guide and sustainable construction*).

Policy EN 8: Protecting and enhancing the historic environment (*prevents insensitive development and specifies requirements relating to designated assets and other valuable buildings*).

Policy EN 13: Pollution and hazard prevention and minimisation (*minimises pollution and provides guidance on contaminated land and Major Hazard Zones*).

#### MAIN ISSUES FOR CONSIDERATION

1. Principle
2. Design
3. Impact on Neighbour amenity – privacy and noise
4. Economy

#### APPRAISAL

##### 1. Principle

The White Horse public house is located within the centre of Overstrand village which is primarily a residential area with a small group of shops, tourism and community facilities. Within the development boundary, small scale ancillary development may be permissible providing it does not adversely impact the residential amenities of neighbouring properties. At present the White Horse PH has a grassed beer garden to the rear with picnic tables and a single, small scale section of child's play equipment. The scale of the proposed play equipment is many times larger than the existing equipment, taking up approximately a third of the entirety of the public house garden. Officers consider that it has clearly been designed as an attraction for customers. For the reasons set out below, it is considered that the equipment proposed is unacceptable.

##### 2. Design

There is no objection to the design of the climbing frames which would be desirable in the right environment/location. As such the proposal is considered to partially comply with policy EN4 of the Core Strategy. The main consideration is the scale of the play equipment within the confines of the site and the resulting impact upon the residential amenity of neighbouring residential dwellings.

##### 3. Impact on Neighbour amenity – privacy and noise

To the north of the White Horse PH is a small residential development off a private drive: White Horse Gardens. There are two dwellings and their associated gardens directly adjoining the northern boundary of the public house garden. Further, on the eastern boundary is another dwelling whose garden area would be affected. The 2 climbing frames are both large

structures, ranging from 3.7m to 4.7m tall. The proposed siting places them, at points, less than a 1m from the boundary fences to the north and east, arguably in a position where the greatest impact will be felt by the residential dwellings adjacent to the site.

The heights of the raised walkways above ground level, ranges from 1m to 2.6m above ground, with the older children's climbing frame (climbing frame 2) being at the highest end of the range. Whilst there are 2m boundary fences surrounding the application site, and in some places the a trellis has been added by the occupants of the adjoining dwellings to increase the height to between 2.5m and 2.75m tall, the highest walkways are also the closest to the boundaries with the adjoining dwellings meaning that users of the climbing frames will be standing at the same height as the boundary fence, giving unrestricted views into the windows and amenity space of the adjoining dwellings to the north and into the amenity space of the dwelling to the east.

The Core Strategy does not include detailed guidance for separation of dwellings from play areas. However, guidance is available from the Fields In Trust (formerly National Playing Fields Association) in its 'Guidance for Outdoor Sport and Play: Beyond the Six Acre Standard'. This guidance document describes various sizes and types of play areas. The guidance makes recommendations for minimum buffer zones around play areas to ensure 'that facilities do not enable users to overlook neighbouring properties, reducing the possibility of conflict between local residents and those at play.'. The closest type of play area described by the Guidance to that being proposed under this application is the 'Locally Equipped Areas for Play (LEAP)'. For a LEAP the recommended buffer zone is '20m minimum separation between activity zones and the habitable rooms/facade of dwellings'.

From this guidance it is very easy to deduce that the proposed separation distance of less than 1m between the play equipment and the boundary fence is unacceptable, and will result in an unsatisfactory relationship with the neighbouring dwellings.

Given the nature of the development it is to be expected that its use would be much greater in the summer months with extensive weekend use and potentially late into the evening (opening hours are until 11pm 7 days a week), exactly at the very time when residents would reasonably expect to be able to have their windows open and use their private outdoor amenity space. It is considered that the proposed climbing frames introduce an unacceptable level of overlooking and resulting loss of privacy, and the potential for increased noise to the significant detriment of amenity of the adjoining dwellings. Therefore the proposal is considered to be contrary to Core Strategy policies EN4 and EN13.

#### **4. Economy**

The Local Member has raised concerns that a refusal of this application may result in a loss of jobs and a detrimental impact on the local economy and threaten the future of the Public House.

No evidence has been submitted with the application to support this. Officers consider that this is a thriving local pub, the future of which is not under threat. It has not been demonstrated how a refusal of the proposed 2no. climbing frames would lead to a loss in jobs as the equipment is not proposed to be supervised. In addition, given the range of services available at the public house already, e.g. weddings, events and bed and breakfast accommodation, in addition to the public house and restaurant, a refusal is not considered to place this community facility at risk.

#### **Conclusion**

It is considered that, taking into consideration the guidance from Fields in Trust, and taking the above factors into account: the scale of the play equipment, and the resultant detrimental impact on the amenity of dwellings to the north and east arising from its use overlooking, loss



of privacy and increased noise, the proposal is contrary to the policies of the Development Plan.

## **RECOMMENDATION:**

### **Refuse**

The District Council adopted the North Norfolk Core Strategy on 24 September 2008, and subsequently adopted Policy HO9 on 23 February 2011, for all planning purposes. The following policy statements are considered relevant to the proposed development:

In the opinion of the Local Planning Authority the proposed development would be significantly detrimental to the residential amenities of neighbouring properties by reason of the design, siting, scale and proximity to the boundaries with neighbouring properties. The proposed climbing frames would result in an unacceptable level of overlooking to windows and private amenity areas of adjoining dwellings, and increased noise disturbance to residents. Accordingly, the proposal is contrary to policies EN4 and EN 13 of the adopted North Norfolk Core Strategy.

## PUBLIC BUSINESS – ITEM FOR DECISION

### (5) **STIBBARD – TPO 929 (Stibbard) All Saints Church Ref No. TPO/16/925**

*To consider whether to confirm a Tree Preservation Order (TPO) to protect a row of 24 Lime trees and 6 Sycamores at the above site.*

### Background

The row of Lime and Sycamore trees adjacent to the Church are a historic landscape feature that are clearly visible on the first edition Ordnance Survey map 1885.

The Council received a concerned call from a local resident that he had seen Tree Surgeons looking at the trees adjacent to the property known as Linden Lea and was concerned that they were under threat. The Landscape contacted All Saints Church and they confirmed that the resident had asked for the trees to be felled on safety grounds. The Officer visited the site and considered the trees to be an acceptable risk subject to appropriate works. It was considered expedient to serve a TPO to protect amenity.

### Representations

Support for the Order:-

One letter of support has been received. (**Appendix 2**)

Objections to the Order:-

One letter of objection to the Order has been received. (**Appendix 2**)

The objections can be read in the letter and the main objections are:

1. The Trees are dangerous and a risk to the public
2. The trees are not maintained or surveyed by the landowner.

## Appraisal

In response to the objections the following comments are made:

Two risk reports by qualified arborists have been submitted to the Council in relation to the trees, one carried out on behalf of the objector and one carried out on behalf of All Saint's Church Parochial Church Council (PCC).

Both reports state that the trees are not an unacceptable risk and future management options given. The Officer accepted and agreed with both reports.

Branches that have fallen recently were due to unusual weather events.

The PCC commissioned the report and will carry out maintenance as appropriate. It is considered that cost of maintenance is not good reason to revoke a TPO.

The TPO does not prevent appropriate management.

## Human Rights Implications

It is considered that the serving of the Order may raise issues relevant to Article 8: The right to respect for private and family life, and Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's human rights, and the general interest of the public, it is anticipated that the confirmation of this Order would be proportionate, justified and in accordance with planning law

## Main Issues for Consideration

1. Whether or not the Order was served correctly in accordance with the relevant legislation and the Council's adopted policy.

Officers are satisfied that the proper procedures were followed when serving the Order.

2. Whether or not the Order has been served on trees of sufficient amenity value to warrant a Preservation Order.

Officers consider that the trees makes a significant contribution to the quality of the local environment and its enjoyment by the wider public and that therefore has high amenity value.

## **Recommendation:-**

**That the Order be confirmed.**

**(Source: Simon Case (Landscape Officer) Ext. 6142)**

## PUBLIC BUSINESS - ITEM FOR INFORMATION

### (6) DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE – QUARTER 1 2017/18

#### 1. Introduction:

1.1 This report sets out the first quarter performance in relation to the determination of planning applications in both Development Management (DM) and Majors.

#### 2. Background:

2.1 The table below sets out the latest performance targets set by Central Government and the period over which performance will be monitored.

Measure and type of application	2017 threshold and assessment period	2018 threshold and assessment period
Speed of Major Development	Less than 50% of applications determined within 13 weeks or an agreed extended deadline over a 24 month cumulative period (back-dated <b>October 2014 to September 2016</b> ). NB for EIA development this extends to 16 weeks or an agreed extended deadline.	60% of applications determined within 13 weeks or an agreed extended deadline over a 24 month cumulative period (back-dated <b>October 2015 to September 2017</b> ). NB for EIA development this extends to 16 weeks or an agreed extended deadline.
Quality of Major Development	No assessment of quality in this designation round	Not more than 10% of appeals overturned over a 24 month cumulative period (back-dated <b>April 2015 to March 2017</b> ).
Speed of Non-major <sup>1</sup> Development	Less than 65% of applications determined within 8 weeks or an agreed extended deadline over a 24 month cumulative period (back-dated <b>October 2014 to September 2016</b> ).	70% of applications determined within 8 weeks or an agreed extended deadline over a 24 month cumulative period (back-dated <b>October 2015 to September 2017</b> ).
Quality of Non-major Development	No assessment of quality in this designation round	Not more than 10% of appeals overturned over a 24 month cumulative period (back-dated <b>April 2015 to March 2017</b> ).

2.2 It is important to note that each measure will be assessed separately. An authority can be designated purely for its performance on Major applications or Non-major applications; good performance on one does not outweigh the other.

2.3 An authority can claim 'exceptional circumstances' before designation occurs. An authority will be given the opportunity to provide clear evidence to justify any corrections to data and to set out any exceptional circumstances which would, in their opinion, render designation unreasonable. Such claims are judged against two criteria:

- Whether the issue affects the reasonableness of the conclusions that have been drawn from the data provided, and;
- Whether the issue had a significant impact on the authorities' performance for reasons beyond its control.

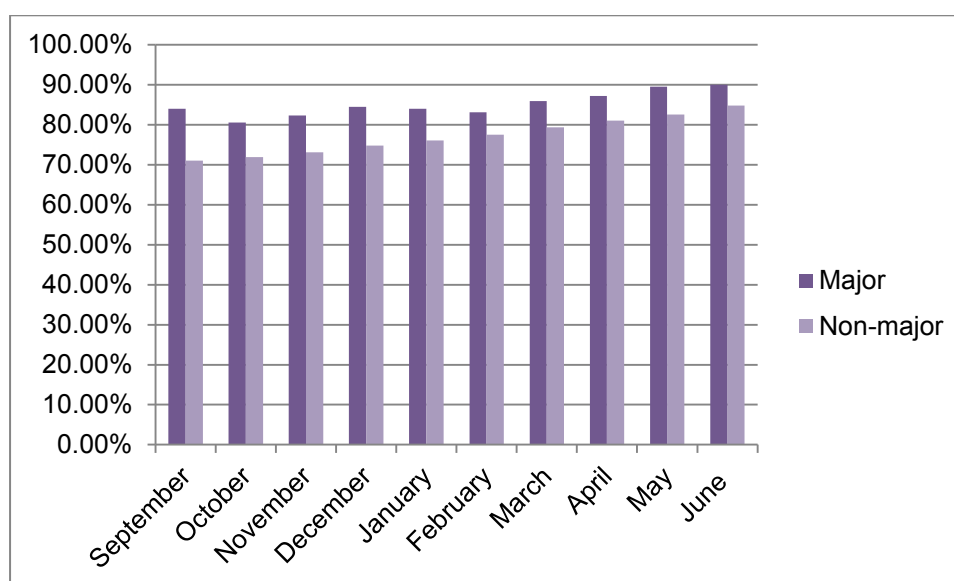
<sup>1</sup> See Town and Country Planning (Development Management Procedure) (England) Order 2015: <http://www.legislation.gov.uk/uksi/2015/595/article/2/made>

### 3. Current Performance:

3.1 Current applications performance data in relation to speed of decisions for Majors and Non-majors is shown in the table below in column 4. The final two columns provide a red/amber/green indicator of our performance against the performance target for 2017 and for 2018.

Year	Month	Type	Gvt performance indicator (NI157)	National PI 2017 criteria	National PI 2018 criteria
			Cumulative (month + 23 preceding months)	Majors (50%) Non-Maj (65%)	Majors (60%) Non-Maj (70%)
2016	Sept	Major	<b>83.95%</b>		
		Non-Maj	<b>71.00%</b>		
	Oct	Major	<b>80.52%</b>		
		Non-Maj	<b>71.90%</b>		
	Nov	Major	<b>82.28%</b>		
		Non-Maj	<b>73.12%</b>		
	Dec	Major	<b>84.42%</b>		
		Non-Maj	<b>74.76%</b>		
2017	Jan	Major	<b>84.00%</b>		
		Non-Maj	<b>76.04%</b>		
	Feb	Major	<b>83.10%</b>		
		Non-Maj	<b>77.50%</b>		
	Mar	Major	<b>85.90%</b>		
		Non-Maj	<b>79.31%</b>		
	Apr	Major	<b>87.18%</b>		
		Non-Maj	<b>81.05%</b>		
	May	Major	<b>89.47%</b>		
		Non-Maj	<b>82.57%</b>		
	June	Major	<b>90.00%</b>		
		Non-Maj	<b>84.70%</b>		

3.2 Performance has been on a steady climb since September 2016 which can be seen in the table below. If this trajectory is maintained then we should avoid being designated as underperforming.



3.3 A comparison of applications submitted for the last three first quarters shown in the table below, shows that workload is steadily increasing. This does not include pre-application advice requests.

Type of Development (Major/Minor/Other) NB Non-major applications are covered in 'minor' and 'other' applications.	Number of applications received first quarter 2015/16	Number of applications received first quarter 2016/17	Number of applications received first quarter 2017/18	Variance 2015/16 and 2016/17	Variance 2016/17 and 2017/18
Major	19	10	8	-9	-2
Minor	115	140	134	+25	-6
Other	249	286	300	+37	+14
Non-categorised <sup>2</sup>	0	0	30	0	+30
Unattributed data	58	24	5	+34	-19
<b>TOTAL</b>	<b>441</b>	<b>460</b>	<b>477</b>	<b>+19</b>	<b>+17</b>

3.4 Appeals performance data (the quality criteria) will not be assessed by Government in 2017. The table below sets out the number of appeals overturned (or lost) and this as a percentage of total application numbers decided over the 24 month period.

	Appeals overturned (lost)	Total applications decided  (1 July 2015-30 June 2017)	%
<b>Majors</b>	1	70	1.43%
<b>Non-Majors</b>	9	2360	0.4%

#### 4. Recommendations:

4.1 Members are asked to note the content of this report.

#### **APPEALS SECTION**

##### (7) **NEW APPEALS**

None

##### (8) **INQUIRIES AND HEARINGS - PROGRESS**

None

##### (9) **WRITTEN REPRESENTATIONS APPEALS - IN HAND**

**BLAKENEY - PF/16/0876 - Erection of 2 no. two-storey 3 bed detached houses and detached garage block. Change of use of part of the site to garden land for 5 Westgate Street; Stratton Long Marine, Westgate Street for Stratton Long Marine Ltd**

<sup>2</sup> Non-categorised applications include conditions discharge applications, non-material amendments etc

**BLAKENEY - PF/17/0143 - Erection of detached chalet bungalow; 8 Langham Road for Mr & Mrs Ingham**

**EAST RUSTON - PU/16/1634 - Prior notification for a proposed change of use of agricultural building to no.2 dwellings houses; Barn at Poplar Farmhouse, Chequers Street for Mr & Mrs Stares**

**GRESHAM - PF/16/0725 - Demolition of building and erection of single-storey dwelling, detached garage and continued use of outbuilding for light industrial and office use; Brick Kiln Farm, Sustead Road, Lower Gresham for Mr D Knowles**

**LANGHAM - PF/16/1157 - Use of land to site 3 shepherds huts for holiday use and parking spaces, erection of utility shed, installation of package treatment plant, 3000 litres water bowser and creation of new access and track; Grove Farm, Field Dalling Road for Grove Farm Partnership**

**SUTTON - PF/16/1178 - Retrospective Change of use - Agricultural storage to Scaffolding business storage and associated outbuildings; depot 3, Sutton Road, Catfield for MR Scaffolding (Anglia) Ltd**

**TRUNCH - PF/16/1528 - Erection of two storey dwelling; Land to the front of, Park Barn, Knapton Road for Mr & Mrs Bennett**

**WEYBOURNE - PF/16/0785 - Single storey garage extension (part retrospective); 25A Pine Walk for Mr Boon**  
SITE VISIT:- 18 July 2017

**WEYBOURNE - ENF/16/0044 - Conservatory + extension to property; 25A Pine Walk**

(10) **APPEAL DECISIONS - RESULTS AND SUMMARIES**

Summaries of the following appeal decisions are attached at **Appendix 3**.

**SCULTHORPE - PF/15/0907 - Erection of 71 dwellings, new access road, side roads, water attenuation ponds, drainage works, play areas, landscaping and associated works (Phase 1- full planning) and Phase 2 of up to 129 dwellings, side roads, primary school, land for community resource centre, play areas, water attenuation ponds and drainage works (outline permission with all matters reserved); Land between Creake Road and Moor Lane for Amstel Group Corporation Ltd**  
APPEAL DECISION:- **APPEAL DISMISSED**

**SHERINGHAM - PF/16/1175 - Erection of front, side & rear extensions; Fairway, 2 Links Road, Sheringham, NR26 8LP for Mr & Mrs Greene**  
APPEAL DECISION:- **APPEAL DISMISSED**

**WEYBOURNE - ENF/16/0114 - Site being used as camp site without permission; The Barn, Bolding Way, Weybourne, Holt**  
APPEAL DECISION: **APPEAL DISMISSED & ENFORCEMENT NOTICE UPHELD**

**THORPE MARKET - TW/16/0478 – Tree Works – Removal of 252m of hedgerow; land east of Thorpe Market**  
APPEAL DECISION: **APPEAL DISMISSED**

(11) **COURT CASES - PROGRESS AND RESULTS**

No change from previous report

## Appeal Decision

Inquiry opened on 25 April 2017

Site visit made on 4 May 2017

by **C J Ball** DArch DCons RIBA IHBC

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

Decision date: 05 July 2017

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### Appeal Ref: APP/Y2620/W/16/3150860

#### Land at Creake Road and Moor Lane, Sculthorpe, Fakenham NR21 9QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full (phase 1) and outline (phase 2) planning permission.
  - The appeal is made by Amstel Group Corporation Ltd against the decision of North Norfolk District Council.
  - The application Ref PF/15/0907, dated 19 June 2015, was refused by notice dated 18 January 2016.
  - The development proposed is described as new housing, infrastructure and facilities at the centre of Sculthorpe consisting of an application for (i) full planning permission for an initial phase comprising 71 dwellings, new access road, and side roads, water attenuation ponds and drainage works, play areas, landscaping and associated works; and (ii) outline planning permission with all matters reserved for later phases comprising up to 129 dwellings, side roads, primary school, land for community resource centre, play areas, water attenuation ponds and drainage works, landscaping and associated works.
- 

### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The inquiry sat for 6 days on 25-28 April and 3-4 May 2017. I made a visit to the site accompanied by the main parties on 4 May. Having heard all the evidence I adjourned the inquiry on 4 May simply to allow submission of a certified copy of the executed planning obligation, with the intention of closing the inquiry in writing on 12 May. On 10 May the Supreme Court handed down its judgment in the *Suffolk Coastal and Cheshire East* case.<sup>1</sup> I asked the parties to comment on how this judgment might affect their respective cases and eventually closed the inquiry in writing on 25 May.
3. The Council refused the application for 4 reasons. Reason 3 relates to the lack of information with regard to the potential archaeological interest of the site. Before the inquiry, the appellant undertook additional investigative work on site to further evaluate the potential for archaeological heritage assets. In the light of these findings the Council confirmed that any remaining archaeological matters could be addressed by planning conditions. Accordingly the Council withdrew reason for refusal 3 and I took this matter no further.

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<sup>1</sup> [2017] UKSC 37 *Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) & Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant)*

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4. The application was submitted as a hybrid full and outline application. While it is open to me to make a split decision, both parties confirmed that this would be unacceptable to them. I have therefore considered the proposal as a whole. The outline part of the application was submitted with all matters reserved so it effectively seeks a decision in principle. Nonetheless I was invited to impose a condition requiring compliance with the accompanying illustrative Masterplan to ensure a cohesive overall site layout that reflects the locational, drainage and other matters agreed at application stage.
5. In that respect, after the application was refused the appellant made a small revision to the phase 2 housing layout. This represents a minor change that makes no practical difference to the illustrative scheme. The Council agreed that the revised illustrative masterplan 5767U/OP 05A should replace the submitted plan 5767U/OP 05. I have considered the appeal on that basis.

### **Agreed matters**

6. Before the inquiry the parties submitted a statement of common ground. This describes the appeal site and its surroundings; notes the relevant planning history; sets out the reasons for refusal; indicates the planning policy context; and details a range of agreed planning issues. It helpfully sets out the matters in dispute, related to the reasons for refusal. The statement includes a core document list and appendices detailing housing sites where 5 year housing land supply (HLS) delivery rates are agreed and not agreed. At my request these housing matters were further discussed and updated information was provided during the inquiry.

### **Planning obligation**

7. Just before the inquiry the appellant submitted in draft form a unilateral undertaking as a s106 planning obligation. This was amended during the inquiry. In final form the undertaking is intended to commit the appellant to providing land for community purposes; providing land for a new primary school and the required pupil contribution; providing accessible agricultural land and open space; incorporating a proportion of affordable housing, starter homes and custom and self-build housing; and making required financial contributions towards cycle infrastructure and a local library. The undertaking includes a commitment by the Norwich Diocesan Board to construct a new primary school.

### **Main issues**

8. Accordingly I consider the key issues in the appeal to be:
  1. Whether the Council can demonstrate a 5 year supply of deliverable housing land and the consequent policy implications;
  2. The effect of the proposed development on the character and significance of a range of designated heritage assets; and
  3. The impact of the proposal on local infrastructure and whether any adverse impacts could be effectively mitigated.

## **Policy background**

9. The local development plan consists of the North Norfolk Core Strategy (CS), adopted in 2008, and the North Norfolk Site Allocations Development Plan Document (SADPD), adopted in 2011. The parties agree that the policies most relevant to this appeal are CS policies SS1, which sets out the spatial strategy for North Norfolk; SS2, which is intended to limit development in the countryside; EN2, which aims to protect and enhance landscape and settlement character; and EN8, which is intended to protect and enhance the historic environment. The Council accepts that CS policy SS3, which promotes a housing supply based on the withdrawn RSS for the East of England, is out of date and does not rely on it.
10. The SADPD identifies sites for development in accordance with the CS, concentrating housing development in principal settlements, secondary settlements and service villages. CS policy SS8 confirms that Fakenham is a principal settlement where provision will be made for a major urban expansion to the north of the town. SADPD allocates 2 sites at Fakenham: F01, a mixed use development to include 800-900 dwellings on open land north of Rudham Stile Lane; and F05, a residential development of 60-80 dwellings on brownfield land between Holt Road and Greenway Lane.
11. The Council has started work on a replacement Local Plan, consulting under Regulation 18 and calling for sites, but as yet there are no emerging policies that are relevant to the appeal.
12. Other material policy considerations include the National Planning Policy Framework (Framework), which sets out the government's core planning principles and key policy objectives to achieve sustainable development, and the National Planning Practice Guidance (Guidance), which details the matters to be taken into account. I have also had regard to a range of Historic England (HE) publications, including Good Practice Advice Notes.

## **Planning history**

13. The appellant proposed the addition of Sculthorpe to the list of service villages during the CS consultation period. The Examining Inspector considered that, since the village has very few facilities to qualify as a service village, and further residential development of any scale could prejudice the delivery of planned development at Fakenham, such an addition would render the plan unsound.
14. Planning permission was granted in 2014 for a playing field and parking spaces to the north of the site for the use of the village school. If this appeal succeeds and a new school is built, with its own playing field, that permission would not be implemented under the terms of the planning obligation.

## **Reasons**

15. The small village of Sculthorpe is set in attractive, open countryside, some distance from Fakenham, the nearest large town. The village is characterised by its gradual evolution from a close-knit historic core to a rather straggling settlement defined by a triangular pattern of rural roads. The older settlement at the junction of Moor Lane and The Street has been extended by ribbons of

19<sup>th</sup> and 20<sup>th</sup> century development along Moor Lane and Creake Road, linking older outlying buildings and loosely enclosing a large, roughly triangular field in current agricultural use. This is the proposed development site and its associated area of accessible agricultural land.

16. The proposal would involve the construction of 200 dwellings, with a first phase of 71 to include 50% (35) affordable dwellings. The provision of affordable housing in the following phase(s) depends on viability testing but would be a minimum of 25%. The proposal includes a new primary school to replace the existing village school and space for an unspecified community facility. All the built development would take place on the southern half of the triangle of land, with access from The Street at its junction with the A148 Kings Lynn-Fakenham road and from Moor Lane. The northern half of the triangle would remain as agricultural land with limited public access for general recreational use.
17. Sculthorpe is not designated as a service village under CS policy SS1 and so lies in the countryside, where it is subject to CS policy SS2. This restricts development to generally small-scale development that requires a rural location, meets local housing needs and supports the rural economy. The appellant acknowledges that the proposal conflicts with these development plan policies, arguing instead that they are out of date in the terms of Framework 49 so that Framework 14, and its tilted balance in favour of granting permission, is engaged. As Footnote 9 indicates, that tilted balance does not apply if specific policies in the Framework indicate development should be restricted. In this appeal, that requires consideration of the proposal against the specific policy of conserving and enhancing the historic environment.

***Whether the Council can demonstrate a 5 year supply of deliverable housing land and the consequent policy implications***

18. Framework 47 makes it clear that, to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs (OAN) for market and affordable housing in the housing market area, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. They should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land, or 20% where there has been a persistent record of under-delivery.
19. The Council considers that it can readily demonstrate a 5 year supply of deliverable housing sites. The appellant challenges both the assessment of the housing requirement and the deliverability of a number of identified sites. Outside the inquiry the parties continued to discuss these matters and helpfully came to a measure of agreement that reduced the differences between them to a few key factors.

*Objectively assessed needs*

20. The Council's up-to-date evidence base in this case consists of the 2014-based DCLG Household Projections and associated 2014-based sub-national population projections; the 2016 Central Norfolk Strategic Housing Market Assessment

(SHMA); and the 2017 draft SHMA update. The parties agree that, as a starting point, the Household Projections result in unadjusted annual figures for North Norfolk of 449 additional dwellings from 2012 and 446 from 2014. Both parties agree that, based on current forecasts for employment, there is no need for a further adjustment for economic factors, although a 10% market signals uplift is appropriate, resulting in a working DCLG Household Projections OAN of 493 dwellings per annum (dpa).

21. The 2016 Central Norfolk SHMA concludes that, in the 24 year period 2012-2036, the OAN for the north Norfolk part of the joint Housing Market Area will be met if around 10,000 new houses are provided. To date about 2,050 have been built, producing an OAN of about 418 dpa (rounded to 420). Using the 2014 housing and population projections as a starting point, the 2017 update similarly adjusts for the locally specific migration trend for the 10 year period 2005-2015 and concludes that the OAN for North Norfolk remains at about 420 dpa. Accordingly, for this appeal, based on its up-to-date SHMA, the Council considers its demographic OAN to be 420 dpa.
22. The appellant's calculations result in an OAN of 529 dpa (rounded to 530). This wide discrepancy in estimated OANs results from a fundamental difference between the parties as to how to treat unattributable population change (UPC) and migration estimates. The appellant also considers that the clarifications and changes to Guidance and OAN methodology proposed by the Local Plans Expert Group (LPEG) are relevant to the calculations.
23. There is no dispute between the parties that there is an over-estimation of local population increase. While the Office of National Statistics (ONS) mid-year estimates indicated an estimated growth in the population of North Norfolk between 2001 and 2011 of around 6,000 persons, it actually grew by 3,200 persons. That is a significant discrepancy. This over-estimate of population change affected subsequent population projections so that the 2012 and 2014 DCLG projections perpetuate the discrepancy.
24. The appellant argues that ONS figures are statistically robust and can be relied on. However, Guidance 017 allows a more nuanced approach, encouraging plan makers to consider sensitivity testing, specific to their local circumstances, based on alternative assumptions in relation to the underlying demographic projections, including migration levels.
25. It is agreed that the likely causes of UPC are problems with the 2001 and 2011 censuses and problems with migration estimates. In responding to questions about the statistical disparities between the 2011 census and mid-year estimates, the ONS considers its North Norfolk data to be very robust and does not consider it necessary to make adjustments to its population data. The Council's interrogation of local data has not identified any evidence of a problem with either census, indicating that the over-estimation of international migration is the most likely cause of UPC in North Norfolk. Migration rates are crucial to the calculation of OAN. Framework 159 makes it clear that, in identifying the scale and mix of housing that the local population is likely to need over the plan period, the Council's SHMA should take account of migration and demographic change.

26. The migration rates used in the 2016 SHMA and the 2017 update reflect the actual migration trends in the 10 years from 2005-2015, rather than the ONS's projections which proved to be about 2,000 persons too high. I agree with the Council that this is a large discrepancy which it would be wrong not to take into account. The Council adjusted the DCLG OAN estimate downwards to reflect the identified UPC. I consider that the Council is right to take the view that DCLG projections should be reduced where justified by local evidence and local judgement. Furthermore, while the outcome of the Brexit negotiations is uncertain, it is not likely to result in an increase in migration rates. The appellant's reliance on the inaccurate population projections and over-estimated migration rates explains their higher estimate of OAN.
27. LPEG's standard methodology recommendations were not endorsed by the recent Housing White Paper and DCLG's commitment to consult on a standard methodology cannot be taken to mean the LPEG methodology. There is no certainty as to whether LPEG's recommendations will be accepted so, as things stand, they carry no real weight as a consideration in the calculation of OAN.
28. I therefore consider that the Council has taken a pragmatic, robust and convincing approach to the assessment of its OAN of 420 dpa and that in this appeal that is the appropriate figure on which to base its housing requirement.

*Housing requirement*

29. The parties disagree on the base date for assessment. The parties originally agreed a base date of 2012 and the appellant prepared his evidence on this basis. The Council subsequently provided evidence based on the DCLG 2014-based Household Projection 2014-2039, which indicates a higher rate of household growth than the 2012 projections. I consider that it is appropriate and necessary to take account of the most up-to-date information. While this caused the appellant to reassess his evidence, I do not consider that he was particularly prejudiced by the Council's change of base date to 2014 as rebuttal evidence was submitted and the implications were fully discussed at the inquiry. The OAN does not change and the final agreed iteration of the 5 year requirement calculation (CD35B) gives alternative calculations based on 2012 and 2014 as the base year. So, while it is fair for me to consider the 2012 assessment to discover the practical effect of the change, I shall give preference to the 2014 assessment.
30. Referring to CD35B (figures and arithmetic agreed by the parties), I start with the 2012 base date and OAN of 420; completions to March 2016 were 1,607 against a housing requirement of 1,680, leaving a shortfall of 73. The 5 year requirement (using the agreed Sedgefield approach) is  $5 \times 420 + 73$ , which is 2,173. The parties agree that a 20% buffer of 435 should be added to account for a persistent record of under-delivery, bringing the overall 5 year requirement to 2,608, an annual requirement of 522.
31. From the 2014 base date, there were 982 completions to March 2016, against a requirement of 840, so that there was an over-delivery of 142. Thus the 5 year requirement is  $5 \times 420 - 142$ , that is 1,958. Adding the 20% buffer of 392 results in an overall 5 year requirement of 2,350, an annual requirement of 470.

*Housing land supply*

32. The parties agree that, for delivery assessment purposes, the 5 year period is 2016/17-2020/21. One year of this period has already elapsed. The statement of common ground indicates that the appellant agrees that the Council can deliver 846 houses on 63 sites, but challenges the delivery of 721 houses on a further 15 sites and the extent of windfall allowance. During the inquiry, further negotiations reduced the number of sites under challenge to 7, delivering 303 dwellings. The appellant argues that these sites will deliver only 75 dwellings.
33. CD35B confirms that the Council's identified sites would deliver 2,238 dwellings plus a windfall addition of 540, a total supply figure of 2,778. The appellant considers that these sites would only deliver 2,010 dwellings plus a windfall allowance of 405, a total of 2,415.
34. Guidance 031 confirms that neither planning permission nor allocation in a development plan is a pre-requisite for a site to be considered deliverable. Footnote 11 to Framework 47 explains that, to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable. It goes on to say that sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans.
35. With the single exception of RAF West Raynham, where there are unusual circumstances, 6 of the 7 challenged sites have planning permission, are allocated in the SADPD or both. The appellant argues that all these sites have deliverability or viability problems that will prevent them from meeting the Council's expected delivery rate.
36. *Land at Grange Cottage/Water Lane Mundesley (44 dwellings)* – the site has planning permission for a phased development. Phase 1 has started on site and is due for completion in August 2017. The appellant points to the financial triggers for phase 2 and some uncertainty in its progression. However, the developer has confirmed a 131 week build programme to complete the development so I consider that there is a clear prospect of completion of all 44 dwellings within the next 4 years.
37. *Land rear of Sutherland House, Overstrand Road, Cromer (68 dwellings)* – the site has planning permission and the Council submitted evidence of a developer intending to start work within the next 4 months. While there are landscape and bat-related issues to resolve, which may delay the start of the delivery of houses, there is no clear evidence to show that 68 dwellings will not be provided by 2021.
38. *Land at the junction of Holt Road and Kettlestone Road, Little Snoring (20 dwellings)* – this small greenfield site is allocated and has planning permission, although it has not been taken up. A recent application by the land owner incorporating a low proportion of affordable housing was refused when no evidence to substantiate that was provided. A house builder has now acquired the site and intends to negotiate a viable proportion of affordable housing in

- accordance with Council policy. That would take account of any viability issues with the site so that there is a realistic prospect of the delivery of 20 dwellings over the next 4 years.
39. *Land north of Rudham Stile lane, Fakenham (Picken site) (60 dwellings)* – the site is allocated and has planning permission. While a developer has recently expressed interest in the site, it is brownfield land and there are acknowledged viability issues and difficulties in formulating a robust reserved matters application. I accept that delivery could be delayed until the final year and it seems to me more realistic to reduce the number of houses to be delivered over the next 4 years to 30.
40. *Land off Hempstead Road, Holt (60 dwellings)* – this is part of a larger allocated site, where a master plan has been agreed. A programme of relocating common lizards from this site has been ongoing over 2 years, removing a potential constraint. The site is owned by developers who have indicated that they are preparing a planning application with the aim of first occupation in 2019 and completion by 2021. The appellant provides no clear evidence otherwise and I consider that there is a realistic prospect that 60 houses will be delivered on the site within the next 4 years.
41. *Land off Laundry Loke, North Walsham (15 dwellings)* – this is a site allocated for 30 dwellings. Site investigation of potential contamination problems are ongoing, grant funded by the Council. While the outcome may have an impact on viability, there is no clear evidence to show that the site is undevelopable. The owner, a housing trust, is investigating the purchase of adjoining land which would increase the capacity to 45 dwellings. I consider that there is a reasonable prospect that 15 dwellings will be delivered over the next 4 years.
42. *RAF West Raynham (36 dwellings)* – this relates to ex-RAF married quarters which were condemned as unfit for habitation. 58 dwellings are currently undergoing a programme of refurbishment and are being made available on the open market. As Ministry of Defence property they were not part of the Council's housing stock, but they will now be available to meet the general housing needs in the district. There is every prospect that at least 36 dwellings will be delivered by 2021.
43. While there is always the possibility of the supply assessment proving to be an under- or over-estimate over time, I consider that the 7 sites in dispute should be considered deliverable in the terms of Framework 47. They are available now, offer a suitable location for development now, and are achievable with a realistic prospect that housing will be delivered on the site within the 5 year period. With the exception of the Picken site, where I have halved the Council's assessed supply figure, the appellant has not been able to show clear evidence that, on sites with planning permission, the schemes will not be implemented to the extent assessed within the remaining 4 year period. I therefore consider that the Council can demonstrate that these 7 sites will deliver 273 dwellings over the remainder of the 5 year period.
44. The parties agree that a windfall allowance should be added and that, based on historic rates and an assessment of likely future sources of supply, this should be at the rate of 135 dpa. They disagree as to whether this rate should apply

for 3 or 4 years. While windfall rates have varied, there has been a consistent annual supply over the past years and I see no reason why there would be no windfall delivery in year 2 of the assessment period. I consider there to be a reasonable prospect of 4 years of windfall housing delivery, amounting to 540 dwellings over the remaining period.

45. During the inquiry an outline planning application was submitted for a mixed use development to include 950 dwellings on allocated site F01 to the north of Fakenham. The scheme is complex and will take some time to process. It may be that some dwellings will be completed before 2021 but, given the need to approve reserved matters and to construct the necessary infrastructure, I consider that it is more realistic at the moment not to include the delivery of any dwellings from this site towards the assessment of the 5 year supply.
46. Thus, with reference to the table in CD35B, and the 5 year assessment from the 2012 base year, I consider that the Council can identify a housing supply of 2,208 specific sites, with a windfall allowance of 540, giving a total supply of 2,748. With an annual requirement of 522, this shows that the Council can demonstrate 5.26 years of housing land supply. Against the 2014 base year, with the same supply of 2,748 sites and an annual requirement of 470, the Council can demonstrate a 5.85 years supply. Even using the appellant's reduced supply figure of 2,415, there would be 5.14 years supply.
47. I therefore find that the Council can convincingly demonstrate at least a 5 year supply of deliverable housing sites.

*Policy implications*

48. This means that, in the terms of Framework 49, relevant policies for the supply of housing are considered to be up to date so that the 4<sup>th</sup> bullet point of Framework 14 is not engaged. In these circumstances the *Suffolk Coastal and Cheshire East* judgement effectively endorses the plan-led system, confirming the primacy of the development plan and the policies through which local people can shape and protect their environment while accommodating necessary development. In accordance with Framework 11 and 12, the appeal must be determined in accordance with the up-to-date development plan unless material considerations indicate otherwise.
49. The CS and SADPD were both adopted before the Framework was published in March 2012. Framework 215 advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. CS spatial strategy policy SS1 and the SADPD allocation policies are all policies for the supply of housing which accord with the Framework's core principle of genuinely plan-led development. In my view they carry significant weight.
50. CS policy SS2 is not a housing supply policy and is intended to protect the countryside, consistent with the Framework core principle of taking account of the role and character of different areas and recognising the intrinsic character and beauty of the countryside. CS policies EN2 and EN8, while not requiring the balancing exercise set out in the Framework, are generally consistent with its policy of conserving and enhancing the historic environment. I consider that all these policies carry significant weight.



51. As the appellant acknowledges, in proposing development in this countryside location, the proposal conflicts with development plan policies SS1 and SS2. That is a particularly weighty consideration against the proposal and I go on to consider other matters.

***The effect of the proposed development on the character and significance of a range of designated heritage assets***

52. The parties agree that the heritage assets to be considered are the Sculthorpe Conservation Area (CA) at the hub of the village; the grade II listed cottage No.4 Moor Lane, which lies within the CA and adjoins the western edge of the site; the grade II\* listed church of St Mary and All Saints, which is located at the northern apex of the village's triangle of roads; and the grade II listed Grove Farmhouse off Creake Road which, with its complex of converted barns, adjoins the eastern edge of the site.
53. The parties also agree that it is the impact on the setting of all these assets that is in question. While s66.1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCA) requires me to have special regard to the setting of the listed buildings, there is no such legal requirement for the setting of the CA. Nonetheless Framework 132 confirms that the significance of any heritage asset can be harmed by development within its setting and CS policy EN2 requires that development proposals should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance among other things the special qualities and local distinctiveness of the area and the setting of, and views from, conservation areas.

*Sculthorpe Conservation Area*

54. The character of the Sculthorpe CA is defined by its rural location. It encompasses the historic nucleus of the village, typically characterised by modest vernacular buildings around a small green, reflecting the dependence of the original settlement on the agricultural economy. The gradual expansion of the village around the triangle of rural lanes, incorporating other small hamlets and farms, surrounded the fields which now form the proposed development site, currently a single large field. This agricultural land at its centre contributes strongly to the distinctive character and appearance of the village, giving it a unique sense of place.
55. For this reason the extended village, encircling the open field, provides a coherent setting for the CA. It shows clearly how the village developed from its original core, in a form influenced by agricultural considerations, and makes legible the historic relationship of the CA with the agricultural landscape. This makes a substantial contribution to the significance of the CA. Development within this setting, particularly of a design that relies on a 'pattern book' Norfolk vernacular rather than responding to the distinctive local identity of its surroundings, would undermine the significance of the CA. The loss of a major part of this open land, and the failure to demonstrate that the location and design of the development would protect and conserve the special qualities and local distinctiveness of the area and the setting of the CA, would conflict with CS policy EN2.

*No.4 Moor Lane*

56. This 17<sup>th</sup> century cottage lies at the head of the former village green at the junction of Chapel Lane, Moor Lane and another lane (Bird's Road, no longer in existence) which led to Grove Farm and beyond. This is a location of some importance. It is a relatively modest building but there are indications, such as its location and the wide mullioned window with drip moulding in the eastern gable wall, that it was of a higher status than a labourer's cottage. A tower windmill once stood adjacent, and the associated mill buildings, now converted to dwellings, lie to the south of the cottage. It is quite possible that the cottage was either a farmhouse or miller's house. The significance of the cottage lies primarily in its survival from the 17<sup>th</sup> century, its location, form and materials and its association with pre-enclosure farming around Sculthorpe.
57. In that respect the farmland to the east, once known as Mill Field and now part of the appeal site, is overlooked by the gable window and gives the building a strong agricultural context within the village. This land forms a significant part of the setting of the cottage, making clear its agricultural character and contributing to its significance, while reinforcing the contribution it makes to the distinctive character and significance of the CA. The proposed development, while set back immediately in front of the cottage, would subsume it into a wider built-up area, so that its agricultural associations would be largely lost. That would cause harm to its significance as an early farming-related dwelling.

*Church of St Mary and All Saints*

58. The Parish Church lies on high ground to the north of the village, at the apex of the triangle of roads, and historically served as a focal point for the local community. From the church the distinctive form of the village is clearly discernible, with roadside buildings encircling the open field at its centre. A sense of how the village developed with the church at a key focal point is readily apparent. The church tower is a landmark visible from various places around the village, emphasising its significance as an important local building which contributes strongly to the particular character of the village.
59. The significance of the church as a key historic focal point is reinforced by its location at the apex point of the village layout, so that the village itself, built up around the central open field, provides the setting for the church. That village setting for its most important building contributes greatly to the significance of the church as the focus for the local community, and all the listed buildings are visible within this context. The proposed development would take place on the southern half of the field, allowing aligned views of the church tower from within the development across the remaining open part of the field to the north. This would mitigate the impact of the development in some respects but, to the extent that the open setting would be partly lost, I consider that there would be some limited harm to the significance of the church as a key community building.

*Grove Farmhouse*

60. The farmhouse dates from the 17<sup>th</sup> century but was enlarged in the 18<sup>th</sup> century to form a more prestigious dwelling. To its west lies a range of farm buildings, now converted to dwellings. The significance of the farmhouse lies largely in its

role at the centre of a large farmstead which historically farmed the open land at the centre of the village. The extensive range of farm buildings associated with the house contributes much to its character and significance as a wealthy farmer's dwelling. While the house is now set in its own grounds, screened by trees, the farm buildings are adjacent to the open field and are prominent in local views. A key consideration is therefore whether the farm buildings are structures protected by the listing of the farmhouse.

61. The house was listed in 1951. S1.5 of the PLBCA, which came into effect in 1969, describes a listed building as a building included in the list and any structure within the curtilage of the building which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948. In this respect I have had regard to the *Taunton Deane* judgment<sup>2</sup> which, in concluding that the barn in question there was not curtilage listed, identified 3 factors as being of particular relevance: the physical layout of the listed building and the structures, their ownership past and present, and their use or function past and present.
62. In the *Taunton Deane* case, a critical factor was the distinct separation of the house and the barn by a wall and some considerable distance between the buildings. In this case, the farmhouse is no more than 5 metres from the nearest barn and, while I saw a wall between the house and the barn complex, that is clearly recent, serving to separate the converted barns. At the time of listing, the farmhouse, its outbuildings and the barns were grouped around open yards, were closely related and operated together as a typical farmstead.
63. The Council's evidence, unlike the *Taunton Deane* case, shows that the farm and barns were in the same ownership at the time of listing and when the PLBCA came into effect. The barns were sold off in the late 1980s and are now in separate residential uses.
64. The Council also shows that, at the relevant dates, the farm owner lived in the house and used the barns and outbuildings for operational farming purposes. All the buildings formed one close-knit agricultural unit, used for a shared common purpose. The uses of the barns and outbuildings were thus subordinate to, and dependent on, the purposes of the farmhouse. There is clearly not the same distinction between the house and the farm buildings as found in the *Taunton Deane* case. I consider, in this particular case, that the use of the farm buildings was ancillary to the use of the farmhouse so that the farm buildings are structures protected by the listing of the farmhouse.
65. The site occupies land that was farmed by Grove Farm and the farmstead group is a prominent feature on its eastern edge. The open farmland provides a clear agricultural setting for the farm group and makes a distinctive contribution to the significance of the house and barns as a traditional farmstead. Development of the farmland in close proximity to the farm group would destroy its agricultural setting and effectively make the farm buildings part of a larger urbanised area. The distinctive agricultural character of the building group would be largely lost, causing harm to its significance as a large local farmstead.

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<sup>2</sup> [2008] EWHC 2752 (Admin) R oao Egerton v Taunton Deane Borough Council and Mears

*Overall assessment*

66. I have found that the proposal would cause harm to the setting of the CA and to the settings of 3 listed buildings, undermining their significance as designated heritage assets. That would conflict with CS policy EN8. Since there would be no harm to the CA or the buildings themselves, I consider that, cumulatively, the harm would be less than substantial.

***The impact of the proposal on local infrastructure and whether any adverse impacts could be effectively mitigated***

67. The construction of 200 dwellings in this location would have a significant impact on local infrastructure including access and highway safety, schools, and library provision. There is also a policy requirement to provide a proportion of affordable dwellings as part of any housing development.
68. Offsite highway improvements to mitigate the effects of the development would take place under other powers outside the planning system. However, the works should be tied to the planning permission, and the parties have agreed Grampian-type conditions requiring implementation of the highways works before work starts on site and completion before any dwelling is occupied.
69. The Council identified a need for more primary school places and for library improvements to serve the increase in population. The development would generate a considerable number of children of school age. No contribution is sought towards high school and 6<sup>th</sup> form places as there is sufficient capacity at Fakenham Academy. However, local primary school places are at or near capacity. Contributions would be required to increase capacity at Sculthorpe Primary School and Fakenham Infants School to accommodate the 50 children of primary school age generated by the development. Similarly, the development would place increased pressure on the local library, so that a contribution is required to increase the capacity to meet the demand.
70. The appellant addresses these matters by a Unilateral Undertaking, which includes provisions for affordable housing in a range of tenures, with a proportion of 50% in phase 1 and up to 25% in phase 2, with starter homes and sites for custom and self-build housing. There would be an appropriate contribution of £12,000 towards library improvements, in accordance with Local Plan policy. There would also be a small contribution towards upgrading the Sustrans cycle route between the village and Fakenham. These are necessary to make the proposal acceptable in planning terms and carry full weight in my considerations.
71. The Norwich Diocesan Board of Finance Ltd is a party to the undertaking, although their interest in the land (in the legal sense) is not disclosed as required by s.106(9). That may invalidate the deed<sup>3</sup>. While the Diocese may become a successor in title following a land transfer, a party with no interest in the land cannot lawfully enter into an obligation. The Diocesan commitment could therefore be at risk, although I accept that the risk is low.

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<sup>3</sup> I refer to Southampton City Council v Hallyard Ltd [2008] EWHC 916 (Ch).

72. The appellant undertakes to transfer a school site to the Diocese, which undertakes thereupon to construct a new 0.5 Form Entry primary school. The appellant confirms the availability of funding. The required education contribution of £372,608 would be paid to the Council for release to the Diocese towards the cost of constructing the school. If the school is not built within 3 years, there is a provision for using the contribution to increase the capacity of local schools.
73. The new school is intended to accommodate not just the children from the new development but also those currently attending the existing village primary school, so that it would replace the existing school. While it has some restrictions, the existing school is not failing (it is currently labelled 'Good' by Ofsted), and that particular provision goes beyond what is necessary. Thus the provision of a new school would not be directly related to the development and would not be fairly and reasonably related to it in scale and kind. Since the capacity of local schools can be increased to accommodate the requirement for additional school places, the construction of a new school is not necessary to make the development acceptable in planning terms.
74. The appellant also offers to transfer a small area of Community Land and a larger area of Accessible Agricultural Land to the Council or Alternative Body. The unilateral undertaking does not bind any party to accepting the transfer. The parish Council confirms that no need or specific use for the community land has been identified and the undertaking contains a provision for reversion to the appellant if the offer is not accepted. The 10 Ha of accessible agricultural land to the north of the development site would remain in agricultural use but would have limited public access on pathways across it. The required public open space and play area provision would be incorporated into the residential layout so there is no identified need for more open space or access to the agricultural land. Neither provision is directly related to the development or is necessary to make the development acceptable in planning terms.
75. While a new school, an area of land for community use and access to open fields for dog-walking and the like might be desirable, it has not been demonstrated that they are necessary in planning terms. They have evidently been offered as an inducement to make the scheme more attractive but they do not meet the tests of CIL Regulation 122 or comply with Framework 204. I have not therefore taken them into account.
76. While I have doubts about the validity of the deed of undertaking, the 'front-loaded' provision of affordable housing would be a clear benefit of the scheme. The contribution towards library improvement and, perhaps by a circuitous route, an eventual contribution to additional school places could both effectively mitigate adverse effects of the development but, since they would simply fulfil policy expectations in preventing harm, they attract no extra positive weight in support of the scheme.

## **Conclusions**

77. I have found that the development of the site would lead cumulatively to less than substantial harm to the significance of the Sculthorpe Conservation Area and 3 listed buildings as designated heritage assets. As Framework 134 makes

clear, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. 'Less than substantial' does not necessarily mean insignificant and each incidence of harm, as a matter of law, must be given considerable importance and weight. Together, the 4 incidences of harm carry significant weight in the overall planning balance.

78. The development would bring clear public benefits, including construction jobs, a wider choice of market housing and an early, and 'above policy', provision of affordable housing to meet a pressing need. However, that need is being addressed through the Local Plan process and the affordable houses would not be in the more populous settlement locations where they are most needed. On balance, giving significant weight to the identified harm to heritage assets, I consider that the public benefits do not outweigh that harm. I find no clear and convincing justification for the harm that would be caused to the significance of the designated heritage assets.
79. One of the core principles of the Framework is that planning for future development should be genuinely plan-led, providing a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency. Local Plans are the key to sustainable development and should set out the opportunities for development and clear policies on what will or will not be permitted and where. The clear aim of the plan-led system is to direct development to where it is needed.
80. CS policy SS1 sets out the Council's spatial strategy for the area, directing most new development to 4 principal settlements, with lesser growth in secondary settlements and a small number of defined service villages. Sculthorpe lies in the countryside, where it is subject to CS policy SS2. This restricts development to generally small-scale development that requires a rural location, meets local housing needs and supports the rural economy. The proposal clearly conflicts with CS policies SS1 and SS2.
81. The village has very few facilities so that almost every journey for work, school, shopping, leisure and recreation would involve travelling elsewhere. There is an hourly bus service to the nearest towns and it would be possible to walk or cycle the 7-10 km round trip to a range of facilities in Fakenham. However, the route is unattractive and, despite improvements, potentially dangerous since it involves crossing 2 major highways. In my view it is inevitable that the vast majority of journeys would be made by private car. That is not a sustainable approach to development and I consider that the site is not an appropriate location for what would be the 3<sup>rd</sup> largest housing site in the entire North Norfolk district.
82. Furthermore I consider that, even if I were to conclude that there is a shortfall in 5 year housing land supply so that Framework 14 4<sup>th</sup> bullet point is engaged, because of their consistency with the Framework the relevant policies would still carry considerable weight. There is a clear prospect of development soon coming forward to make up the shortfall and the harm I have identified to designated heritage assets is so extensive that, even on that tilted balance of considerations, the adverse impacts of granting permission would still significantly and demonstrably outweigh the benefits.

83. The development would bring benefits to the area, including a wider choice of market housing and a significant number of affordable houses to help meet a clear need. An argument can be made that the development would fulfil the economic and social roles of sustainable development. However, because of its rural location, the failure to protect the countryside and the harm caused to a number of heritage assets, the proposal would not meet the environmental role. Since the 3 roles are mutually dependent, the proposal as a whole would not be sustainable development.
84. Overall I find that the proposal would conflict with development plan policies intended to direct development to where it is needed, to protect the countryside and to safeguard the historic environment. The benefits of the proposal do not outweigh the harm it would cause and there are no other material considerations sufficient to indicate otherwise. For the reasons given above I conclude that the appeal should be dismissed.

*Colin Ball*

Inspector

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Estelle Dehon of Counsel	Instructed by Noel Doran, Solicitor, Eastlaw.
She called:	
Charmain Hawkins BA(Hons) MTP DipBldgCons(RICS) Dip Surv MRTPI IHBC	Associate, Beacon Planning Ltd.
Mark Ashwell MRTPI	Planning Policy Manager, North Norfolk District Council.

### FOR THE APPELLANT:

Thomas Hill, Queen's Counsel	Instructed by Indigo Planning Ltd.
He called:	
Stephen Nicol BA MA	Senior Associate, Regeneris Consulting.
Ben Frodsham MTCPT MRTPI	Associate, Indigo Planning Ltd.
Maggie Gatland MRICS MRTPI	Consultant to Indigo Planning Ltd.
Simon Neate BA(Hons) MRTPI FRGS	Executive Chair, Indigo Planning Ltd.

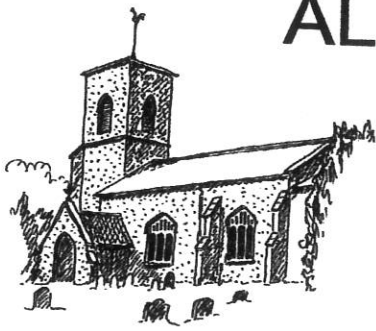
### INTERESTED PERSONS:

Tony Walters	Chairman, Sculthorpe Parish Council.
Brian Watkin	Local resident.
Thomas Fitzpatrick	District and County Councillor.
Roy Reynolds	District Councillor.
Sarah Wilson BSc(Hons)	Sculthorpe Village Action Group.
Nigel Middleton	Conservation Officer, Hawk and Owl Trust; Manager of the Sculthorpe Moor Community Nature Reserve.
Stephen Faulkner BA(Hons) MSc DipTP MRTPI CiLCA	Principal Planner, Norfolk County Council (s106 session only).



## **ADDITIONAL DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 Mr Hill's opening statement on behalf of the appellant.
- 2 Ms Dehon's opening statement on behalf of the Council.
- 3 Copy Illustrative Masterplan 5767U/OP 05A
- 4 Clear versions of Mrs Hawkins' map reversions, proof appendix A.
- 5 HE publication 'Seeing the History in the View'.
- 6 Extract from the Journal of the Norfolk Historic Buildings Group, relating to the vernacular houses of Binham.
- 7 Appeal decision APP/Y2620/W/14/3000517 ('Holt') CD34.
- 8 Extract from PPG 'Local Plans' CD11.
- 9 Extract from PPG 'Housing and economic land availability assessment'.
- 10 DCLG housing Statistical Release July 2016 '2014-based Household Projections: England 2014-2039 CD61.
- 11 Detailed recommendations: Local Plans Expert Group March 2016.
- 12 Appeal Decision APP/X1545/W/15/3139154 ('Mayland') CD62.
- 13 Court of Appeal judgment [2016] EWCA Civ 1146 ('Davertry').
- 14 High Court judgment [2016] EWHC 2979 (Admin) ('Hinckley and Bosworth').
- 15 Copy of EIA Screening Opinion and associated documents relating to the proposed development of land north of Rudham Stile Lane, Fakenham.
- 16 North Norfolk Ward parishes map.
- 17 Copy of outline planning application ref PO/17/0680, dated 28 April 2017, for up to 950 dwellings, employment development, primary school and children's nursery, hotel, local retail, and associated public open space and infrastructure on land north of Rudham Stile Lane and east of Water Moor Lane, Fakenham.
- 18 Council's note of affordable housing standard fallback arrangement.
- 19 Bundle of correspondence relating to the appellant's letter of 11 April concerning determination of HLS.
- 20 Revised statement of common ground in relation to OAN and HLS CD35A.
- 21 Bundle of correspondence relating to a Freedom of Information request concerning land allocated for development north of Rudham Stile Lane, Fakenham CD57A, B & C.
- 22 Plan showing LVIA viewpoints.
- 23 Artist's impressions of the proposal - Mrs Gatland's proof appendix 11.
- 24 Mrs Gatland's note on the Grove Farm Barns planning history.
- 25 Final version of agreed OAN/HLS position statement CD35B.
- 26 Draft suggested conditions.
- 27 Final draft of the appellant's unilateral undertaking.
- 28 Mr Faulkner's note on the policy basis for required contributions.
- 28 Cllr Walters' statement.
- 30 Mr Watkin's statement.
- 31 Mrs Wilson's statement.
- 32 Mr Middleton's statement and Sculthorpe Moor/Fen Management Plan 2012-17.
- 33 Site visit itinerary.
- 34 Ms Dehon's closing submissions.
- 35 Mr Hill's closing submissions.
- 36 Certified copy of executed unilateral undertaking.
- 37 Ms Dehon's comments on the *Suffolk Coastal and Cheshire East* judgment.
- 38 Mr Hill's comments on the *Suffolk Coastal and Cheshire East* judgment.



# ALL SAINTS CHURCH STIBBARD

APPENDIX 2

*PCC SECRETARY:*  
MISS M. R. DUGDALE,  
"WAREHAM HOUSE"  
GUIST ROAD,  
STIBBARD,  
FAKENHAM,  
NORFOLK. NR21 0AQ  
TEL: 01328 829215



2<sup>nd</sup> June 2017

Mr. Simon Case,  
North Norfolk District Council  
Holt Road, Cromer.

Dear Sir.

Ref: Application TW/17/0139 TPO NNDC (Stibbard) 2017 No. 2.

At a meeting of the Stibbard Parochial Church Council held on the 31<sup>st</sup> May 2017, the matter of the lime trees in Stibbard Churchwalk was discussed. It was proposed, seconded and agreed that we wish the historic line of lime trees to remain intact and object to their removal.

Yours faithfully,

Miss M.R. Dugdale

Secretary Stibbard PCC

Conservation, Design and Landscape Manager  
North Norfolk District Council  
Council Offices  
Holt Road  
Cromer  
Norfolk  
NR27 9EN

Mr and Mrs Coulet  
Linden Lea  
Wood Norton Road  
Stibbard  
Norfolk  
NR210EX



Date 3<sup>rd</sup> April 2017

**Objection to TPO/17/0929**

Dear Simon Case,

With respect to the recent provisional tree preservation order, reference TPO/17/0929, Land at All Saints Church, Fulmondestone Road Stibbard we write to you.

By this letter we formally object to the TPO following regulations 6 of the Town and country Planning (Trees) Regulations 2012.

The particular trees of note are the first three lime trees (*Tillia x Europaea*) from Wood Norton Road, grid reference: TF 98215 28261, TF 98218 28269 and TF 98223 28279. The two latter of the lime trees have a severe lean to the East which causes a serious concern to the occupiers of Linden Lea positioned in the falling direction of the trees. This lean is exacerbated by the unbalanced crown, the split trunk, a precarious counter lever branch and the diseased bark.

Furthermore the tree lime trees are severely lacking in maintenance, with hazard beams, crossing rubbing branches, V shaped unions, major deadwood and erratic vigorous growth. During the last storm 'Doris' the trees shed a significant amount of deadwood, with branches of 12ft falling onto the ground below and the property of Linden Lea.

It should be noted by the reader that the ground below involves a footpath, a children's playground and the back garden of Linden Lea, utilised by a family with a baby and a toddler. The public (especially children) are seriously at risk to deadwood and falling branches of these particular trees.

The reason for this objection to the TPO is that the trees of note and the majority of trees on the land of the All Saints Church are deemed as dangerous and a risk to the public. Under the Occupiers Liability Act 1957 and 1984 there is a duty upon the occupier to take such care as is reasonable to ensure that visitors to their land shall be safe from harm.

The maintenance of the trees on the land of the All Saints Church is and will increasingly be (due to the shrinking number of worshippers) an unbearable expense to the All Saints Church. As occupiers of Linden Lea, we experienced this first hand as we've repeatedly appealed for maintenance during the last four years. No maintenance was carried out on our appeals due to the lack of funds.

Due to the lack of maintenance (into the foreseeable future), an unbalanced crown, split trunk and severe lean to the east and the property of Linden Lea, the offer of felling the second Lime tree was made at the expense of Mr and Mrs Coulet. At high cost (£700-£1,200) to our young family that wish for the safety of their livelihood. This offer was formally accepted by the All Saints Church and the bishop of Norwich on the 20<sup>th</sup> March 2017, on the grounds of health & safety.

Two replacement fruit trees will be planted in place of the felled tree to benefit the wider community. The small fruit trees will be much smaller and more manageable in comparison to the lime tree.

Please also refer to the below risk assessment carried out for the three lime trees, on their current state. The risk based on the likelihood and the severity is unacceptably high and we urge swift action.

With impeccable speed of the public servants a TPO was produced on the 28<sup>th</sup> March 2017 to stop the felling and protect the entire lane of trees on the land of the All Saints Church. We've invited Mr Case to discuss the matter on site, which was ignored.

The trees on the land at All Saints Church with the provisional TPO have furthermore received some maintenance by volunteers (including Mr Coulet) at a low level, involving cutting down of epicormic growth. With the protection, and the need to apply for maintenance permissions, this voluntary and often ad-hock maintenance will no longer take place in fear of a claim. This will put further pressure on the All Saints Church to carry out maintenance by tree surgeons at a considerable expense.

It is arguable that the path with trees on one side (not both sides) is a lane of valuable trees, most trees are up shoots of trees once felled and huddled together clumps of trees liable to become an issue with time. We suggest that there are many excellent examples of ancient trees that would benefit of protection over the TPO in question, such as ancient oaks on Moor End and Moor End Lane Stibbard.



As a condition to our objection being overruled, we will hold North Norfolk District Council liable to organise appropriate and timely maintenance of the trees within the TPO (If any) as is evidently required as the Council is fully aware that the All Saints Church is unable to maintain the trees to a safe standard.

This requires to be formally agreed with the landowner and affected neighbours, on the basis of a Tree Risk Assessment and Tree Survey Report (by a suitably qualified arboriculturist) and set out in maintenance schedule with a sufficient budget allocated to it. The maintenance schedule aims to set out periodic maintenance and surveys of the trees to ensure the public (or neighbouring owners) are not at risk.

Yours Sincerely

A handwritten signature in black ink, appearing to be 'William Coulet', written in a cursive style.

William Coulet

# RISK ASSESSMENT

<b>Assessors Name(s):</b> W. Coulet	<b>Reference no:</b> Lime Trees	<b>Assessment Date:</b> 03/04/2017	<b>Review Date:</b>
<b>Site / Area:</b> Playing ground and private gardens	<b>Location:</b> Stibbard	<b>Identify People at Risk:</b> Public	
<b>Overview of site and other relevant information:</b> Large lime trees with severe lack of maintenance.			

Hazards	Existing Control Measures	Initial Risk		Revised/Additional Control Measures	Residual Risk	
		R	IR		R	RR
Trees falling over: Severe lean to the east which is exacerbated by the unbalanced crown, the split trunk and the diseased bark	none	3	5	15		
Falling out of major branches: Major deadwood, crossing rubbing branches, hazard beams and erratic vigorous growth	none	4	4	16		

RISK RATING MATRIX	
Risk	Hazard
1 Extremely unlikely	Minor injury
2 Unlikely	Moderate injury
3 Likely	Over 3 days
4 Extremely likely	Major injury
5 Almost certain	Fatal

RISK MATRIX						
		Hazard				
		1	2	3	4	5
Risk	1	1	2	3	4	5
	2	2	4	6	8	10
	3	3	6	9	12	15
	4	4	8	12	16	20
	5	5	10	15	20	25

RISK RATING	
1-5	Low Risk
6-8	Medium Risk
9 +	High Risk

<b>Application Number:</b> PF/16/1175	<b>Appeal Reference:</b> APP/Y2620/D/17/3171443
<b>Location:</b> Fairway, 2 Links Road, Sheringham, NR26 8LP.	
<b>Proposal:</b> Demolition of garage and erection of front, side and rear extensions	
<b>Officer Recommendation:</b> Refuse	<b>Member decision (if applicable)</b> N/a
<b>Appeal Decision:</b> DISMISSED	<b>Costs:</b> N/a
<p><b>Summary:</b> The main issues the Inspector considered in the appeal were:</p> <ul style="list-style-type: none"> <li>The effect of the extensions on the character and appearance of the building and the surrounding area</li> </ul> <p>The Inspector felt that the combined effect of the proposed extensions would substantially reconfigure the front elevation and create a noticeably larger building. In their view the scale of the extensions, particularly the increase in width of the first floor, would result in a building that would be far too dominant and of an excessive scale within the plot, and out of keeping with the general character of the area.</p> <p>The Inspector noted that the proposals were a reduction on those previously refused and dismissed at appeal, but felt that the development would still be harmful to the character and appearance of the building and the wider area.</p>	
<b>Relevant Core Strategy Policies:</b> EN4 – Design	
<b>Relevant NPPF Sections/Paragraphs:</b> None identified	
<b>Learning Points/Actions:</b> None	

<b>Tree Works reference:</b> TW/16/0478	<b>Appeal Reference:</b> APP/ENV/3166287
<b>Location:</b> Land east of Thorpe Market, Norfolk, NR11 8TR.	
<b>Proposal:</b> Removal of 252m of hedgerow	
<b>Officer Recommendation:</b> Refuse	<b>Member decision (if applicable)</b> N/a
<b>Appeal Decision:</b> DISMISSED	<b>Costs:</b> N/a
<p><b>Summary:</b></p> <p>The Inspector felt that the hedgerow was evidenced as being recorded in documents held at a Record Office as an integral part of a field system pre-dating the Enclosures Act, therefore, the hedgerow is considered to be 'important' under archaeological criteria as defined in the Hedgerow Regulations 1997 (para 4), and as such there is a presumption in favour of its retention.</p> <p>The reasons given for the hedgerow's removal have arisen from an inspection of an underground gas pipeline carried out by National Grid. National Grid proposes to plant a hedge along the line of the pipeline to ensure there are no further cultivations above the pipeline, but the combination of the existing and proposed hedgerow would subdivide the field into smaller units also requiring new access arrangements. The reasons for the hedgerow's removal are therefore that it is necessary to ensure the land remains viable for arable cultivation.</p> <p>The Inspector noted that the land was farmed as a single field, and that the size of the fields that would be created if the hedgerow was not removed, would not be notably smaller than other fields in the vicinity.</p>	

The Inspector, in making her decision, advised that the Regulations were introduced specifically to provide protection for hedgerows of particular interest in the face of commercial pressures for removal. The circumstances in which their removal might be allowed are “likely to be exceptional”. Although she acknowledged that National Grid proposes to plant a new hedgerow, this had no bearing on my decision, which centres on the strict terms of the Regulations and government policy. Thus she considered that the grounds of appeal do not add up to the *exceptional* circumstances which would justify the removal sought.

**Relevant Core Strategy Policies:**

N/a

**Relevant NPPF Sections/Paragraphs:**

N/a

**Learning Points/Actions:**

None

<b>Enforcement Reference: ENF/16/0114</b>	<b>Appeal Reference: APP/Y2620/C/16/3155261</b>
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**Location: Land at The Barn, Bolding Way, Weybourne, Holt NR25 7SW.**

**Breach:**

(1) The material change of use of the land to use as a campsite, and (2) The erection of an amenity block to facilitate the campsite.

**The requirements of the notice are to:**

(1) Cease using the land as a campsite and (2) Demolish the amenity block and remove the resultant debris.

**The period for compliance with the requirements is as follows:**

Two months with step

(1) and four months for step (2).

**Enforcement Notice date: 1<sup>st</sup> July 2016**

**Member decision (if applicable) N/a**

**Upheld date: 30<sup>th</sup> June 2017**

**Appeal Decision: DISMISSED & ENFORCEMENT NOTICE UPHELD**

**Costs: N/a**

**Summary:**

The appellant’s case was that the change of use, alleged on the notice, is immune from enforcement action due to the passage of time. The appellant claims that a seasonal campsite use began on or before 1 July 2006, the relevant date, and has continued thereafter without interruption for a period of 10 years.

The Inspector attached great weight to the aerial photographs submitted by a local resident showing the incremental development of the site, and dating the erection of 4no yurts to only 2014. In addition, the Inspector found several contradictions in the appellant’s statement of case, and no verifiable data provided with regard to individual who stayed at the site, for example, payments for pitches, or testimony of any individual who stayed at the site.

In conclusion, the Inspectors found that, on the balance of probabilities, the evidence presented about the previous use of the site was contradictory, confusing and lacking in specificity. The information about the nature, scale and timings of the activity was incomplete and lacked credibility, because it does not unambiguously show, to the Inspectors satisfaction, that the material change of use, as alleged on the notice, occurred on or before 1 July 2006.

**Relevant Core Strategy Policies:**

N/a



<b>Relevant NPPF Sections/Paragraphs:</b> N/a
<b>Learning Points/Actions:</b> None

<b>Application Number: PF/15/0907</b>	<b>Appeal Reference: APP/Y2620/W/16/3150860</b>
<b>Location: Land at Creake Road, Sculthorpe</b>	
<b>Proposal:</b> Hybrid Outline and full application for the erection of up to 200 dwellings, school, public open space and supporting infrastructure	
<b>Officer Recommendation: Refuse</b>	<b>Member decision (if applicable) Refused</b>
<b>Appeal Decision: DISMISSED</b>	<b>Costs: N/a</b>

**Summary:**

The main issues the Inspector considered in the appeal were:

1. Whether the Council can demonstrate a 5 year supply of deliverable housing land and the consequent policy implications;
2. The effect of the proposed development on the character and significance of a range of designated heritage assets; and
3. The impact of the proposal on local infrastructure and whether any adverse impacts could be effectively mitigated.

In this appeal the appellants challenged the Authorities position on five year land supply and argued that in the absence of a five year supply the Councils adopted planning policies on the supply of housing should be treated as out of date. In such circumstances they argued it was necessary to apply the presumption in favour of sustainable development and in this case the appellants argued that the benefits of the scheme outweighed any harms and therefore planning permission should be granted.

The Council for its part argued that it had a five year land supply and consequently the decision should be reached in accordance with the development plan which included up to date policies in relation to housing provision and distribution which should be given full weight. Even if the inspector found in favour of the appellant on land supply grounds the Council argued that development on the site would be unsustainable due to its location, lack of supporting services and the harmful impacts on Sculthorpe Conservation Area and a number of adjacent Listed Buildings.

In dismissing the Appeal the Inspector concludes that the Council can comfortably show a five year land supply based on up to date evidence of housing need, that the Core Strategy approach to development locations is consistent with the NPPF and therefore policies controlling development in the Countryside should attract significant weight. The adverse impacts on heritage assets and the unsustainable location of the site were sufficiently harmful that even in the absence of a Five Year Land Supply the proposal would be unsustainable development and permission should be refused.

The Inspector also reaches conclusions on the appellants offer to provide facilities via a section 106 obligation. He concludes that these facilities (school, community land, and accessible agricultural land) could not be shown to be necessary to make the development proposal acceptable and therefore he considers them to be an 'inducement' to grant planning permission. He is doubtful that such obligations meet the legal tests for such agreements.

**Relevant Core Strategy Policies:**

SS1 – Overarching development strategy, SS2 Development in the Countryside, SS3 Housing, and EN8 Protecting and Enhancing the Historic Environment.

**Relevant NPPF Sections/Paragraphs:**

The relationship between paragraphs 47 dealing with the need to maintain a five year land supply and paragraph 14 of the NPPF and what is called the application of the 'tilted' planning balance or presumption in favour of sustainable development. In short where a five year land supply is shown the tilted balance in paragraph 14 is not engaged and decision should be made in accordance with development plan policy unless material considerations suggest otherwise.

**Learning Points/Actions:**

The Inspectors decision confirms the statutory requirement to reach decisions in accordance with the up to date policies of a development plan unless material considerations suggest otherwise, reinforces the importance of maintaining a Five Year Land Supply and reaffirms the principle that large scale developments should be located where access to a range of day to day services are available.

**Sources:**

Sarah Ashurst – Development Management Manager

Mark Ashwell – Planning Policy Manager