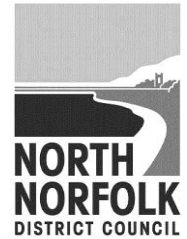


# Development Committee



**Please contact:** Linda Yarham  
**Please email:** [linda.yarham@north-norfolk.gov.uk](mailto:linda.yarham@north-norfolk.gov.uk)  
**Direct Dial:** 01263 516019

17 January 2018

A meeting of the Development Committee will be held in the **Council Chamber** at the Council Offices, Holt Road, Cromer on **Thursday 25 January 2018 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 15 February 2018.**

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

Members of the public who wish to speak on applications are required to register by **9 am on Tuesday 23 January 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, Mrs A Fitch-Tillett, 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:** Mr D Baker, Mrs S Butikofer, Mr N Coppack, Mrs A Claussen-Reynolds, Mrs J English, Mr T FitzPatrick, Mr V FitzPatrick, Mr S Hester, Mr M Knowles, Mrs B McGoun, Mrs J Oliver, Miss B Palmer, Mrs G Perry-Warnes, Mr J Punchard, Mr J Rest, Mr E Seward, Mr D Smith, Mr N Smith, Ms K Ward, 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  
**Email** [districtcouncil@north-norfolk.gov.uk](mailto:districtcouncil@north-norfolk.gov.uk) **Web site** [www.north-norfolk.gov.uk](http://www.north-norfolk.gov.uk)

## 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 20 December 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/17/1802 - Erection of 25 dwellings with associated roads, landscaping and drainage, off-site highways works, extension to church graveyard, and construction of new 12-space church car park; Church Field for FW Properties**

Page 5

(Appendix 1 – page 114)

- (2) **PASTON - PF/16/1743** - Demolition of existing Block 3 (16 units) and replacement with 8 units (6 no.2 beds and 2 no.3 beds) of holiday accommodation; Mundesley Holiday Centre, Paston Road for Mundesley Holiday Village Ltd Page 40
- (3) **SCOTTOW - PF/17/1057** - Change of use of existing buildings within the enterprise park area from former military use and various commercial uses to a range of B1, B2 and B8 designations (light industrial/office/research and development, general industrial and storage/distribution uses). Use of former taxiways and hard standing areas for low-speed vehicle driver training. Indicative route shown as land reserved for second site entrance.; Scottow Enterprise Park, Lamas Road, Badersfield, Scottow for Norfolk County Council Page 54
- (4) **SHERINGHAM - PF/17/0468** - Demolition of existing hotel and erection of mixed use building comprising 10 dwellings (Use Class C3) and 4 commercial units (Use Class A1/A2/A3/ A4/A5) with associated parking and highways works; Formerly The Shannoeks, 1 High Street for North Norfolk District Council Page 79
- (5) **BRISTON - PF/17/1681** - Erection of two semi-detached houses to include a detached single garage and new vehicular access.; Land rear of 157 & 159 Fakenham Road for Mr K Lawrence Page 89
- (6) **NORTH WALSHAM - PF/17/0902** - Conversion of stable/barn to create dwelling; Agricultural Building, Adjacent to Bells Cottage, Holgate Road, White Horse Common for Mr F Knights Page 92
- (7) **WEYBOURNE - PF/17/1740** - Removal of conditions 3, 4 & 5 of planning permission PF/09/0029 to allow residential occupation as a dwelling; The Roost, Bolding Way for Mr Harrison Page 97
- (8) **APPLICATIONS RECOMMENDED FOR A SITE INSPECTION** Page 102
- (9) **DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE – QUARTER 3 2017/18** Page 102
- (10) **8 WIVETON ROAD, BLAKENEY – JUDICIAL REVIEW RESULT** Page 108  
(Appendix 2 - page 119)
- (11) **NEW APPEALS** Page 112
- (12) **INQUIRIES AND HEARINGS - PROGRESS** Page 112
- (13) **WRITTEN REPRESENTATIONS APPEALS - IN HAND** Page 112
- (14) **APPEAL DECISIONS – RESULTS AND SUMMARIES** Page 113  
(Appendix 3 - page 145)
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 - 25 JANUARY 2018**

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/17/1802** - Erection of 25 dwellings with associated roads, landscaping and drainage, off-site highways works, extension to church graveyard, and construction of 12-space church car park; Church Field for FW Properties

**Major Development**

**- Target Date: 21 February 2018**

Case Officer: Mr R Parkinson

Full Planning Permission

**RELEVANT CONSTRAINTS**

Within Countryside (outside LDF settlement boundary)

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**

PLA/1984/1598

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

PF/17/0696 PF

Church Field, Hoveton, NR12 8NY

Erection of 25 dwellings with associated roads and landscaping, extension to church graveyard and off-site highways works

Refused 20/09/2017

The above application was considered by Development Committee on 3 August 2017 when it was deferred for technical details to be clarified, and re-considered on 31 August 2017, when it was ultimately refused. Previous reports to committee and minutes can be viewed at: <http://www2.north-norfolk.gov.uk/apps/committees/default-copy.asp?path=Development%20Committee>.

### Background

This application represents the third proposal since May 2016 for residential development at Church Fields linked to commercial development at Littlewood Lane, Hoveton.

The applicant states that a housing development scheme at the Church Fields site is required as “enabling development” necessary for the delivery of an otherwise-unviable new employment development for Benthic Solutions to build an approved site at Littlewood Lane.

The employment building and extension to the Stalham Road industrial estate at Littlewood Lane (ref PF/17/0733) were considered by the Development Committee on 16 February 2017. The proposal was contrary to policy, being development on Countryside land, but in making its weighted assessment the Development Committee considered the potential benefits of the forecasted employment outweighed the policy conflict. Committee acknowledged that the intended occupant might not be able to finance the complete project at that time, but it was nevertheless considered suitable as a stand-alone proposal and permission was granted.

At the same time, the applicant had proposed a public car park on Horning Road (application PF/16/0732), presented as a ‘community benefit’ for the school and users of the church of St John, but it encountered difficulties and could not be supported and was withdrawn.

The initial Church Fields residential proposal was for 31 dwellings (ref PF/16/0731) which raised too many irresolvable concerns to be supported; Officers recommended the proposal be reconsidered, and the applicant withdrew the application in December 2016.

Consequently, application PF/17/0696 reduced the dwellings to 25, set back the development further south and repositioned the Horning Road access to minimise its effect on the Grade II\* listed Church of St John, moved the eastern boundary west to minimise and screen the effects on the Grade II listed Church Farmhouse, changed the housing types, increased affordable housing provision and improved recreational provision. Whilst Officer’s considered this could be supported, the Development Committee remained concerned that there were insufficient public benefits presented to justify departure from Core Strategy policy SS 2, and following the Development Committee meeting on 31 August 2017, the application was refused.

The decision notice stating the reasons for refusal of application PF/17/0696 are set out at **Appendix 1**.

## THE APPLICATION

The latest proposal has sought to increase the level of public benefits offered through the application. There has been no change to the form, layout or content of the housing development, but the proposal has included a new car park within the application boundary, situated within Church Field alongside the Church of St John, and is proposed for use by the church. The applicant also proposes to increase the amount of public play equipment contributions for off-site improvements, from the £4,050 available in the previous proposal, to £30,000 in current application PF/17/1802, and as part of the Section 106 process will bring forward the detailed proposals for Building B of the Littlewood Lane commercial scheme in addition to development of Building A.

Throughout these proposals, the applicant, developer and principal landowners behind this proposal remain the same. The housing development is still proposed as “enabling development” to facilitate delivery of the extant employment permission; this would be required and would be achievable through using an associated Section 106 legal agreement which would obligate the common landowner of the two sites to prevent development of one site before the other. By virtue of using obligations on the housing land to deliver the employment land, the two proposals should be considered inextricably linked.

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 two houses and barns at Church Farmhouse, accessed via private drive off Horning Road.

The application proposes the following development:

- an access road from Horning Road to serve 25 new dwellings and Church Farmhouse,
- woodland planting belt to the east,
- a footpath and cycle link to Meadow Drive,
- small open space and play area to the south,
- access to adjoining woodland for residents,
- use of the northern half of Church Field as a managed conservation site,
- hedging and tree planting and new footpaths along Horning Road,
- highways amendments to reduce speeds along Horning Road,
- a graveyard extension and landscaping to the south of the Church of St John,
- an additional 12-space car park adjacent to the west of the Church,
- a short additional footpath link from the housing into the northern field footpath route.

The application has included the following documents and supporting information:

- Planning statement
- Design and access statement
- Statement of community involvement
- Ecology reports – preliminary appraisal, woodland, reptiles, barn owls and badger surveys
- Habitats Regulations Assessment screening report
- Flood risk assessment and drainage strategy
- Contamination study including cemetery extension survey
- Archaeology assessment
- Arboricultural implications assessment
- Traffic count surveys and data analysis
- Heritage impact assessment
- Landscape and visual impact assessment
- Section 106 heads of terms proposals
- Viability appraisal

The application includes a small part of the drainage scheme outfall within the Broads Authority LPA boundary. The Broads Authority has confirmed that NNDC can determine the proposal on its behalf.

## **REASONS FOR REFERRAL TO COMMITTEE**

At the request of Local Member Cllr N. Dixon, having regard to the complexity of the issue and local concerns raised, and the relatively limited range of amendments made since the previous application PF/17/0696 was considered by Development Committee.

## **PARISH COUNCILS**

**Hoveton Parish Council** - No objection. The following comments are put forward:

1. The proposed 30mph speed limit should be extended east around the bend in the Horning Road.
2. The church car park should be made available to all / wider public.
3. Despite the site being outside the development boundary, the proposal has sufficient merit to outweigh this constraint.

The Parish Council would like to clarify that it relies on expert advice from the Environment Agency, flood authorities and Anglian Water as to whether the new development would exacerbate existing drainage problems.

**Ashmanhaugh Parish Council** – No comments received.

August 2017: No objection, but the following comments / concerns were raised:

- 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** – Objection.

- The site is not in the Local Plan / is outside the development boundary.
- This is not a brownfield site.
- Traffic problems will be exacerbated, particularly through increases on Norwich Road and at the Wroxham bridge pinch-point, which already prevent emergency vehicle access. As such this is contrary to NNDC policy CT5.
- HGVs from here will exacerbate the issues from Roys' extension and Littlewood Lane.

## **REPRESENTATIONS**

The applicant undertook community consultation in 2015. Although the proposals have changed since then, it is likely that the issues are well known across the community.

55 responses had been received, albeit this includes a number of representations from the same addresses raising various issues. 53 letters object and 2 letters in support. The Church of St John has also indicated support for the car park.



## **SUPPORT**

- The proposal is much improved since originally submitted and overcome the previous issues that caused the last two applications to be (rightly) viewed less favourably.
- The proposal benefits the village of Hoveton and its community. It is small scale, gradual, and provides social, economic and physical infrastructure...the village has suffered from large developers not providing this on other sites.
- There is a good range of accommodation mix, type and size.
- There are benefits to a local business which could employ local people, a Norwich developer, and a local landowner who could expand business opportunities.
- The exceptional factors outweigh loss of a small area of farming land.
- The farming land at the moment is poor quality and could be used for fly tipping.
- The proposals are tasteful, as noted by previous schemes.
- It is not especially visible from Horning Road so will not affect the village.
- It is sustainable in location and has energy efficiency features.
- The new woods and paths proposed are welcome.
- Proximity to the church might act as a deterrent to vandalism at the church.

## **OBJECTIONS**

### Principle of residential development:

- The proposal offers minimal improvements over the last application.
  - Proposal remains completely unacceptable.
  - Proposal does not address the reasons for its rejection set out last time.
  - Consideration is a waste of time and taxpayers' money
- 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 Hoveton village.
- The scheme creates a 'gated community' not properly integrated.
- 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).
- The applicant is skewing their interpretation of the dwellings being provided to suggest that 3 additional 'small' units will contribute to increased Affordable Housing provision, supposedly raising the contribution from 28% to 40%, which appears wrong.
- 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.
- There remains ample land in Hoveton that is more suitable for residential development and that has not changed in the intervening period since August 2017.
- Using greenfield sites is contrary to the White Paper: Fixing our broken housing market, which emphasises re-use of brownfield land and surplus public land first.

#### 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.
- The enabling development argument is still not justified whilst the commercial operator Benthic Solutions Ltd has published their accounts which demonstrate it is 'a multi-million-pound company with half the value in cash', which will only be improved by new contracts and business being secured. This makes the housing scheme unnecessary when the applicant could finance the employment site themselves.

#### 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.

#### Car park

- Car park causes more highways safety danger on the already busy Horning Road.
- Car park will not prevent parents parking within the road, close to the school.
- The close proximity of car park entrance to St Johns primary school is dangerous.
- 12-spaces in car park is too small and is inadequate for functions at the church.
- The absence of a car park was not a reason for the Committee refusing the proposal in August and so is not justified for inclusion this time, and nor does it address the Committee concerns.
- There is no public benefit associated with the car park and the scheme does not provide enough public benefits to outweigh the conflict with local plan policy SS2.

#### 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 (plot 6) on the southern side of the scheme is completely inappropriate, especially given the sloping site, in relation to existing properties.

- 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.
- The car park detracts from the amenity and historical significance of the Grade II\* listed Church of St John.

#### Drainage and flood risk:

- Infrastructure will be overloaded.
- River flooding from the River Bure and Brimbleow 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 and flood properties.
- There are inadequate 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.
- Sewage flooding continues to be a problem for existing residents and Anglian Water has said it cannot be repaired; residents were without facilities as recent as Dec - Jan.
- Fixing problems at this site only moves the issue further along the network.
- There is no allowance or contingency to account for future hard landscaping by residents / homeowners which could increase impermeable surfaces.
- The Broads Authority should not absolve themselves of this responsibility.
- Overloaded / broken foul sewage network affects ecology in the River Bure.
- Planning conditions are not enforced so should not be relied on to resolve this issue.

#### Ecology:

- Loss of habitats.
- 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.

#### Landscape impacts

- There have not been any updates to the Landscape and Visual Impact Assessment to account for the new impacts of the development, nor its effects in winter when trees are not in full leaf (all pictures are in June 2016).
- The applicant does not justify why they believe the site is not good quality agricultural land.

- 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.

#### Financial contributions

- There appears no guarantee that the District Council will transfer relevant financial contributions to the Hoveton Parish Council.

#### 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.
- The Parish Council should remember that in August 2017, they objected to the application, and considered it should be refused on the following grounds: (i) being outside the development area boundary and contrary to the local plan, (ii) loss of agricultural land, (iii) highway safety, (iv) inadequate sewage system, (v) inappropriate surface water drainage (vi) impact on two listed buildings, (vii) light pollution from vehicles, and (viii) noise pollution.
- The only support comes from the chairman of the Parish Council.
- The Parish Council support is only influenced by the proposed receipt of funds; their suggestion that local business could benefit is flawed – benefits would not be local.

#### 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.

## **CONSULTATIONS**

Where responses have been provided, they are recorded. Where a response has not been provided, their previously-submitted comments are provided below for context.

- **County Council (Highway Authority)** – No objection subject to conditions.

The proposals had provided as much mitigation against highways concerns as possible and the outstanding matters from application PF/17/0696 have been addressed or could be addressed through conditions. The scheme has addressed its less-than-ideal access road location and issues from controlling speeds associated with having a lack of built frontage to Horning Road. The car park and restoration of the verge is appropriate.

- **Conservation and Design Officer** - Objection.

Impact on heritage assets –

The original 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 25-dwelling schemes have 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.

The proposed car park on the eastern side of the church is formal and further increases the harm caused, but can be mitigated with landscaping and informal surfacing to hopefully become an established part of the rural scene not uncommon alongside churches. The harm would be increased, but remain “less than substantial”.

#### 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 and Trees Officer** - No objection subject to conditions.

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, but these should be conditioned alongside wider landscape strategy.

The recently amended plan shows the proposed church car park incorporating substantial tree and hedge planting to lessen the visual effects of the parking area within the setting of the church. At least one additional tree should be provided within the meadow on the southern side of the new car park, adjacent to the hedge, to continue the tree screening. The scheme incorporates appropriate planting proposals to screen the houses and proportionate on-site open space provision to cater for residents' requirements. Containment of the development within the southern portion of the site will minimise impact on the prevailing landscape character and perception of the extension of the settlement eastwards into the open countryside.

- **Strategic Housing Officer** – Comments provided.

The applicant has not proposed any changes to the viability assessment considered in July 2017, nor justified how the increased funding of the project can accommodate the costs of the new car park and additional public open space sums. The Strategic Housing Manager is entitled to request that these funds should instead be made available for improved affordable housing provision, either on site or off-site.

As proposed, the 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.

Housing Officer's preference would be for the costs of the car park and play equipment to be removed and instead transferred into an improved balance of affordable housing tenures, or more preferably, another affordable shared-ownership dwelling altogether in lieu of a private dwelling and associated garaging and en-suite. However, it is acknowledged that the application proposes a certain range of public benefits that should be assessed on their own merits. If retained, the housing mix and designs are appropriate and acceptable given the financial viability constraints of the scheme.

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

The applicant's July 2017 financial appraisal remains consistent with market conditions and local development activity and still 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.

The appraisal evidences the link to more public benefits (£25,000 more for play and £100,000 costs for the car park) by accepting a lower profit margin and a lower purchase price for the residential site from the landowner. It would be possible to 'convert' the costs of the car park and play equipment into an improved balance of affordable housing tenures, or even another affordable shared-ownership dwelling in lieu of a private dwelling.

This notwithstanding, the appraisal - for the development as proposed - is sound.

- **County Council - Planning Obligations Co-Ordinator** – No objection; section 106 contributions are required.

The following planning obligations are required:

- an Education contribution of £93,152 for early education and extending the primary and nursery school capacity;
- a Fire hydrant for the development, costing £815;
- a Libraries contribution of £1,875 to be spent at Wroxham library on IT equipment;
- provision of on-site green infrastructure and connections to public rights of way;
- a Green Infrastructure contribution of £1,500 to provide links to the existing network, provide a 'welcome pack' for all the new dwellings which would include information on local sustainable recreation opportunities and importance of local wildlife sites.

- **The Broads Authority – No objection subject to conditions to secure mitigation.**

The Broads Authority considers the scheme would create an adverse effect on the setting

of the Broads National Park unless the following features are secured by conditions: use of the northern field for ecological benefit, with Landscape and Conservation Management Plan; hedging provided to screen the site from the south side of Horning Road; more trees provided to the south; hedging and boundary treatments encourage wildlife corridors; trees should be native in the landscape scheme; lighting should be restricted; archaeology investigations around Church Farmhouse; tree assessments and planting in the southern drainage pipe route; use of oil and petrol and sediment interceptors, and maintenance thereof; and, ecology enhancement measures.

The 12-space car park is of a low key nature and materials but does cut into the field which was supposed to be used for biodiversity enhancement and amenity space, so is regrettable but not significant and appears to reflect the rural setting. It may be more visible from the Broads area to the east, so more trees were needed to the original layout, and this has been resolved by trees planted within the car park hedging.

The Broads Authority has delegated authority to NNDC to determine that part of the application in the BA area on their behalf (the layout of the drainage pipe), subject to the approval of the drainage scheme by the Lead Local Flood Authority, and confirm the drainage outfall will not encroach on navigation rights.

Any approval should be subject to conditions relating to the drainage connection in relation to tree planting, archaeology, working methods and use of chemical and silt interceptors.

- **Local Ward Member – Cllr. Dixon** - No comments received at time of writing.

August 2017 – Initial concerns in respect of surface water and foul drainage and play equipment were satisfactorily resolved and the scheme was supported on balance.

- **Historic England – No objection, but defers consideration of the car park to NNDC.**

The overall proposals are an improvement to the earlier application for 31 houses and since then Historic England (HE) has advised the applicant on the current proposals. HE retains reservations about the principle of developing on this side of the church but HE feels the new building area to the south of the site further from the churchyard will reduce its visual impact. There is already some modern development to the south of the church which forms a distant backdrop on lower ground. Adding a degree of new building to this along the lines now proposed might therefore not impinge on the immediate setting of the church to a harmful degree, but consideration should be given to landscaping along the northern edge of the new building to soften its appearance.

The new parking to the east of the churchyard will bring development to its immediate setting and HE would prefer to see car parking bays sited at the road side rather than an area as proposed. This might be an alternative the Council could explore, but HE would not object to the application on this aspect alone.

HE does not object to the housing and defers the matter of the car park to NNDC.

- **The Church of St John** - No objection.

The Church will shortly need more capacity of their graveyard, so welcome the proposed extension and contributions offered if it met the planning policy requirements. The car park will be very useful to improve safety and improve use for funerals and weddings. 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, and provide public walking routes alongside and to the rear of the church and graveyard.

- **Environmental Health** - No objection subject to conditions.

The desk study contamination report recommends further investigation which should be secured by conditions. There are no issues with the foul or surface water schemes.

- **Environment Agency** - No objection.

There is not considered to be a risk to groundwaters from the extension to the church graveyard, based on the forecasted 2-3 or even 5 burials a year.

The developer should confirm with Anglian Water if there is capacity at the Belaugh Water Treatment works because this site is not allocated in the local plan so the additional loads from the new development might not be able to be accommodated. On the understanding that foul sewage systems are overloaded at times, it is especially important that the developer liaise with Anglian Water to ensure this will not increase flows in Meadow Drive or ensure capacity can be improved. A foul water strategy may need to be conditioned.

The surface water 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 – No objection subject to securing mitigation features**

The outcome of the LPA's Habitats Regulations Assessment is accepted and it is agreed there is no likely significant effects on designated sites, in part because there are no direct footpath links from the development to protected sites, and partly because the green infrastructure and isolation of the site will help reduce potential impact. Any permission must include mitigation by planning obligations to secure payment of the SAC/SPA Visitor Impact Assessment & Mitigation contribution and the Green Infrastructure contribution which should be used to provide habitats and recreation information to new residents.

- **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. The site can connect to the network by gravity-fed foul drainage. 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 and LLFA.

Existing problems in the network are operational issues for Anglian Water to address, and the assessment of capacity has factored-in a 25% allowance for infiltration getting into the foul water system. Any future long-term capacity investment will be linked to the local plan allocations.

- **King's Lynn Internal Drainage Board** - No comments received at time of writing.

August 2017 – No comments received.

- **NCC Flood & Water Management (Local Lead Flood Authority)** - No objection.

The scheme is considered acceptable following various technical details being clarified, appropriate testing and suitable allowances for climate change. The scheme has justified why it cannot use deeper infiltration and has provided enough evidence to confirm shallow-depth infiltration will work for permeable paving areas. It has been sized to accommodate the heaviest storms and accounts for exceedance beyond that. Subject to conditions to confirm some technical matters of construction design, and subject to use of appropriate management and maintenance regimes, the scheme will avoid increasing flood risk within the site and off-site, including to Meadow Drive.

- **Norfolk County Council Historic Environment Service** – No objection.

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.

- **NHS England (East)** – No comments received at time of writing.

August 2017 - 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 will be provided on this application.
- **Broadland District Council** – No comments received on this or previous application.

## **RELEVANT 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

### **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

Paragraphs 203-204: Planning conditions and obligations

### **Other material considerations:**

North Norfolk Design Guide Supplementary Planning Document (December 2008)

Landscape Character Assessment Supplementary Planning Document (June 2009)

Government White Paper: Fixing our broken housing market; emphasis on re-use of brownfield land and surplus public land in the first instance.

Human Rights Act 1998 - Article 8: The Right to respect for private and family life, and Article 1: The right to peaceful enjoyment of possessions. Having considered the likely impact on an individual's Human Rights, and the general public interest, the recommended approval is considered to be justified, proportionate and in accordance with planning law.

Crime and Disorder Act 1998 - Section 17 - No significant crime and disorder issues.

### **MAIN ISSUES FOR CONSIDERATION**

1. Principle of development, including links to the employment site
2. Impact on Heritage Assets
3. Highways safety
4. Trees and landscaping
5. Housing mix and Affordable Housing provision
6. Surface Water Drainage
7. Foul Water Drainage
8. Design, layout and residential amenity
9. Ecology
10. Impact on Designated Sites
11. Other matters, including use of agricultural land
12. Planning obligations and delivery of public benefits

### **APPRAISAL**

#### **(1) 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 recent appeal decisions) and there would have to be other material planning considerations in favour

of the proposal for housing to outweigh the identified policy conflicts.

The proposal presents an “enabling development” argument, namely that the approval of the residential scheme is necessary to incentivise the release of land for the construction of commercial development on Littlewood Lane, Hoveton, on land adjacent to Stalham Road Industrial Estate. That scheme has already been approved under application ref: PF/16/0733. The approved scheme would provide 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).

Alongside this, other public benefits include the provision of the graveyard extension, a proposed 12-space car park next to the Church of St John, and an application to advance further development at Littlewood Lane.

It should be noted that the applicant has also agreed to a shorter timescale for commencement of development, which reflects the commitment to- and readiness of- the employment proposal.

The last application PF/17/0696 was considered by Officers to provide a significant enabling argument through delivery of employment facilities that would be secured by planning obligations. Alongside the provision of the church graveyard extension, and having regard to the range of mitigation measures proposed in the scheme, such as landscape planting, highways works and some Section 106 contributions, this was considered to provide sufficient public benefits that represented a significant material consideration in the determination of the application. As such, Officers felt the material considerations would weigh in favour of the proposal more so than the site’s location in Countryside land would weigh against it, and as such Officers were of the opinion that the departure from policy SS 2 was justified.

In this application, Officers consider the addition of the new car park for use by the Church will further improve the level of public benefit whilst improving highway safety on Horning Road; this part of the development could be secured by planning conditions to be provided in tandem with the residential development. Similarly, the improved planning obligation financial contribution for play facilities, would improve the mitigation of the impact of the development and further reduce conflict with the development plan.

However, it should be noted that the Development Committee took the opposite view in August 2017. If the Development Committee is minded to reverse its decision it should satisfy itself that the range of public benefits weigh in favour of the proposal despite not providing a policy-compliant level of affordable housing, creating some level of harm to the setting of heritage assets, and being within Countryside land and hence contrary to the development plan.

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 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 necessary for the developer to address the costs of accessing / opening-up the Littlewood Lane site, and incentivise the sale 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 obstacles (e.g. access rights, road, services) needed to allow the 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. This ensures planning obligations can 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 sufficient.

Officers and their external advisor are satisfied that development at Littlewood Lane is reliant on this quantum of residential development being provided, because that ensures the access constraints are removed and site services and infrastructure are installed. The access provision and site infrastructure will be provided at the cost of the developer of this residential scheme, to be secured through appropriate planning obligations.

In response to previous requests of the Development Committee, the applicant also provided contextual information about the intended principal occupant of the commercial site, Benthic Solutions Ltd (BSL). BSL are anticipated to occupy the fully-approved Building A which has been designed specifically for their needs, and it is expected will be able to expand into Building B soon afterwards, and possibly use Buildings C and D in the future (or at least be the 'anchor' to a 'science hub' commercial site). The applicant and BSL are confident of needing to use Building B soon, and have offered to submit 'early' reserved matters application(s).

Although on Countryside land itself, the Littlewood Lane site was accepted because the relocation of BSL will transfer at least 11 employees (with this likely to grow once the company has the additional floorspace), and potentially grow to provide 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.

Benthic Solutions Ltd have previously provided the following descriptions of their current work and projected expansion:

*“Turnover in Benthic Solutions has remained stable during the Oil & Gas recession (since late 2014). We have operated at about 50% of our capacity so we have been able to remain in our current premises with the current workforce. 2017 has been marked by a significant upturn in activity with our turnover expected to double for the year. In 2015 and 2016 we completed 15 and 24 projects, but in 2017 we have been successful in 34 projects with almost a third of the year still to go. We have also already received awards for projects in 2018.*

*In the past we have been heavily reliant on contractor personnel from all over the country but experienced problems in reliability and client confidentiality. We plan to replace these with full-time staff when we have the room to house them. Our new office building (Building A) has the capacity for 20-25 office staff, doubling the capacity of our current workforce. Following the current upturn in the industry we would hope to fill these within the 12 month period from construction with the need to expand into the neighbouring building (Building B) the following year. The company is being restructured at the moment and it is planned to have the parent company administrative team located in Hoveton. With an industry upturn, we plan to support offshore marine innovation with the start-up science hub buildings (Buildings C and D). Our prediction for these will be within 3 years from completion of the main office. The expected employment for the total site is upwards of 45.*

*Currently 5 of our 11 staff live in the village, with some of the future positions expected to also be supported from the village. We have a number of positions for new staff and we are looking to recruit from Norfolk before we look further afield. We are already in discussion with the UEA about a graduate scheme and are also talking to the local colleges.”*

Benthic Solutions Ltd have previously provided the following description of the role of their offices in Southampton and future plans thereof:

*“Our Southampton office was an acquisition a few years ago. This is a small specialist underwater acoustic consultancy with 5 permanent staff. We have no plans to move this office as strategically positioned near the National Oceanographic Centre and all staff are local to that area. We are moving the administration facilities from that office back to Hoveton (head office) creating a new position in Norfolk. However, we will be forced to employ field staff from our Southampton office if the Hoveton premises does not get resolved quickly. Ultimately, an expansion of this office is one possible option, albeit an expensive and very disruptive one, if we are forced to abandon Norfolk.*

*We have also already declared that we operate a small eDNA laboratory in Brixham, Devon. This currently has 2 personnel but expected to expand quickly after the recession has passed. This was only setup up there as we had no space in Norfolk. This would have been an ideal business for building C/D, if we had been able to progress this proposal sooner.”*

Benthic Solutions Ltd have also previously provided the following description of the progress made in the Littlewood Lane scheme:

*“The preparation work for the Littlewood Lane site is very advanced. All of the surveys have been completed and the detailed architecture prepared. A detailed tender pack has been furnished and delivered to prospective contractors for bidding on 3rd August. This means that we would be in a position to appoint a contractor and commence the works within a matter of weeks from the time the contract for the land has been concluded.”*

In light of the above position from BSL, there is a reasonable prospect that development of the Littlewood Lane site would commence quickly in the event that this enabling housing scheme is permitted. Further, the proposed planning obligations will prevent development of the housing until key milestones are reached in constructing Building A.

The applicant has agreed to a shorter timescale for commencement of this residential development, and, in this application, has proposed that full details for Building B can be submitted prior to the start of residential building works at Church Field, which would be secured by planning obligation. This further confirms an ability and willingness to progress the Littlewood Lane scheme quickly.

## **(2) 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 and associated highways works along Horning Road 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 dwellings 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.

The proposed car park would be sited adjacent to the eastern boundary of the Grade II\* listed church, accessed from and perpendicular to Horning Road. There would be hedging around the car park (with trees planted within the hedge), leaving the church boundary wall visible from Horning Road. The 12 spaces of the car park are sited sufficiently far south that they avoid being in direct view of the actual church building and would be partially screened from the churchyard by an existing hedge.

The car park would create some harm to the setting of the church. The gated entrance to the church yard, the flint and brick wall and the unspoilt fields to the east are very much part of the churches immediate setting and a new car park entrance within these close confines will have a negative impact on the appreciation of the church, its sense of isolation and its dominance within the landscape. However, every attempt has been made to soften its impacts: although there would be a tarmac vehicle entrance, the use of gravel surfacing, and the hedging around the car park will eventually integrate the car park into its rural setting and could over time appear as an ancillary function not uncommon with rural churches. It should also be noted that the car park would replace the need to continue using the existing verge; planning conditions would require the developer to remove the existing rough layby and reinstate the verge on Horning Road, which would improve the approach to Hoveton.

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 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.

### (3) **Highway safety**

The residential element has its single access road at the least-preferred part of the site from a highway safety perspective. 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, but previous applications have established that the applicant has provided as much mitigation for highways concerns as is feasible, whilst minimising heritage concerns. The proposed highway solution has been influenced by planning officers' preference for the new access to be separated from the Church and feel less intrusive in the rural environment, and so is positioned on the eastern side of the site. A footpath and cycle link will connect to Meadow Drive in the south-east corner.

In siting the residential access on the eastern side of the field, the applicant assessed vehicle speeds and frequency on Horning Road, and undertook a Road Safety Audit. The proposed access strategy includes the following mitigation:

- 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 part-time 20mph zone outside the school;
- Proposes a continuous footpath link in front of the Church and Primary School to link the site;
- Proposes using trees on both north and south sides of Horning Road to reduce peripheral vision for drivers and encourage slower and more considerate driver behaviour;
- Provides a continuous hedge along the south side of the verge and footpath along Horning Road, which maintains visibility and provides rural setting and screening.

However, the proposal nevertheless creates the following concerns:

- 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 some of the existing hedging / brambles at the edge of the field would be removed, which makes the access more prominent.

- 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 Three 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 car park offers some additional improvements to highway safety. The proposed 12-space car park access will be adjacent to the church entrance and is as visible to drivers on Horning Road as possible, which is the Highway Authority's preferred location for any development that requires access from Horning Road due to the improved visibility of vehicles at the top of the rising land on the approach to Hoveton.

The existing layby outside the Church is highway verge and is currently compacted earth. Church users currently park perpendicular to the Horning Road, with room for approximately 11 cars parked informally, all reversing onto the A-road. The proposed car park removes cars from the layby and improves the flow of traffic, reducing the need to turn within the road and improving the visibility of the access through its siting on the brow of the hill.

The existing layby would be restored to highways verge and be landscaped appropriately, by planning conditions. The new path in front of the church may encourage vehicle drop-off's for the school further along Horning Road, but landscaping can include raised ground to prevent any continued informal parking which would otherwise compromise the heritage and highway safety benefits of the car park.

The design of the car park area includes a disabled parking space and a separate paving-slab path that doesn't rely on the same gravel surface of the access drive. Although a little distance from the church gates, this is suitable and creates less impact than a closer parking space.

#### (4) **Trees and landscaping**

The development will be well-screened with trees and hedges to soften its appearance, break-up the line of built form and better integrate the site into the countryside environment. Trees are proposed as a thin screening line along the northern boundary of the dwellings, in line with the southern-most edge of the graveyard extension, and in the rear gardens of the southern-most properties, as a screening measure. 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 planning obligations 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, no looked at the impacts of the development in winter with less tree cover, but does note where there are greater or lesser degrees of sensitivity which has informed the assessment of impact.

The main impacts from the development are experienced from 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. Conditions would determine size, scale, species and density of trees and hedging around the site, to ensure appropriate screening, ecological connection and outlook / visual amenity.

The small detrimental impact and harm to the setting of the national park would be addressed by the planting mitigation and a new native hedge screen along Horning Road. On balance, Officers consider the scheme does not have a noticeable significant visual connection to the wider Broads area, and visual intrusion would be of a limited and minor extent, and such impacts could be appropriately softened by the tree belts within and around the scheme.

The car park proposals have been appropriately screened with more native hedging and interspersed trees within the hedge. Subject to a minor addition of further trees, the car park will be screened from south and east and appear recessive and ancillary to the church. The car park area is partially within the root protection areas of 3x Category B trees in the church graveyard (2x pines [T5, T6] and a horse chestnut [T7]) and a Category C elm and cherry plum hedge; all in good health, condition and with good expectancy.

Impacts on trees are assessed in the revised Arboricultural Implications Assessment (AIA) and the Method Statement proposed will be required by conditions, e.g. no-dig construction, anti-compaction matting, gravel surfacing containment, and a requirement for the works to be carried out under supervision of an arboriculturalist.

The car park will be noticeable to pedestrians and visitors to the church, but whilst there are no vehicles present within it, there will be little noticeable impact. In views from the Three Rivers Way to the north, the new access and the stark appearance of the car park will at first appear incongruous, but will soften over time and is considered an improvement to continued presence of cars parked directly beside the church. The screening offered by the hedge will mitigate the impact on the setting of the Broads National Park.

##### **(5) Housing mix and Affordable Housing provision**

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 homes (in this case, bungalows).

The scheme proposes 7 affordable dwellings which is 28% of the 25 dwellings. These 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%.

Although the tenure mix does not quite reflect the overall need, the viability assessment has confirmed that it is the optimal reasonable and deliverable mix of tenures possible, and any alterations to this would require compromising other significant planning obligation contributions such as education.

The applicant has submitted a viability appraisal which satisfactorily demonstrates that a policy compliant amount of affordable housing (45%) could not be provided, and was discussed at some length in August 2017.

In coming to a view about the affordable housing mix it is important to not lose sight of the primary purpose of the development which is to help enable delivery of the employment land approved under planning ref: PF/16/0733. Whilst a scheme purely focussed on generating income for the enabling element could have been submitted without any affordable dwellings, the applicant has sought to try and find a balance between meeting the enabling requirements but also providing a range of public benefits including a proportion of affordable housing.

In addition to the usual development costs, the applicant has demonstrated that the scheme needs to comprise this number of private of units in order to finance:

- The land payment for the Church Field Site;
- The enabling costs of £251k for the Commercial Development on Littlewood Lane;
- The cost of putting in the extensive adopted highway to the site from Horning Road (this is unusually long to account for the site's constraints);
- The other highway related costs including the pavement along Horning Road, splitter island, traffic regulation order, the resurfacing of the layby, etc;
- The costs of putting in the services including the foul and surface water drainage and power to the site;
- Costs of providing the car park as a public benefit; and,
- The overall landscaping to the scheme.

If a policy compliant scheme of 45% affordable dwellings was required on this site, subject to the tenure mix of these affordable units, the applicant estimates that between 45 and 50 homes would be required on the site in order to deliver these proposals and enable the Benthic Solutions Ltd scheme on Littlewood Lane. If additional units were required, the development costs of the project increase and more complex planning issues would be raised by the scheme having to encroach into the land at the front of the site, and the landowner would expect a higher land receipt as a result of the higher value of the residential land. All the other community contributions would also increase.

Whilst recognising and supporting the need for developments to provide an amount of affordable housing in accordance with policy requirements, in this case, there is adequate justification for accepting an amount of affordable housing below adopted standards. This has been verified through the independently-assessed viability appraisal which follows both RICS and NPPG guidance. Accepting the reduced provision is based on a need to meet the enabling requirements for the employment land but also providing an amount and mix of housing appropriate for the context of the site and the range of planning issues that need to be addressed.

#### **(6) Surface Water Drainage**

The surface water drainage strategy has been based on results of infiltration tests from across the site; this suggested soakaways would not be effective method because the soil conditions at depth would prevent permeability, and only 'shallow depth' infiltration could work. As such,

very little surface water would return to the ground and run-off from the main estate road ('road A') and from buildings is collected and drained into attenuation pipes below the roads, 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 system has been designed to have capacity for the heaviest rainfall events including the necessary 40% climate change allowance (1 in 100 years flood events with 40% climate change and 6-hour storm duration). A limited amount of shallow-depth infiltration is proposed for permeable paving of drives and the two private roads (roads 'B' and 'C'), which the infiltration test results showed would be possible.

A SuDS Management and Maintenance report has also been prepared and agreed by the Lead Local Flood Authority (LLFA). General maintenance responsibilities will involve:

- Anglian Water is expected to adopt the main drainage pipe system, but if they don't it will be managed by a resident's management company;
- Rainfall to gardens will naturally infiltrate as currently;
- Private Roads B and C and the footpath leading to Meadow Drive will be permeable paving or other permeable material (e.g. gravel), and these will be maintained by the resident's management group;
- Private drives of houses will use permeable paving materials. Individual households will be responsible for their maintenance, and planning permission would be required to change to non-permeable materials for areas of more than 5 sqm .

The sloping topography of the south-west corner of the site would be addressed through minor land levelling. A raised bund along the southern boundary and alongside the Meadow Drive link is proposed to contain and direct any flood exceedance, which should only be a very rare occurrence but has the added benefit of providing wildlife corridors and landscaping within gardens. The applicant has also provided plans showing how the pipework on site will be protected from root ingress using root protection barriers. As the pipes will release water at greenfield rates the outflow will not be sufficient to cause flooding on the rare events when the drainage point on the river might be flooded. All these details are considered acceptable to both the LLFA and planning / landscape officers. The applicant has also agreed to provide chemical/oil and sediment interceptors within the drainage scheme, in order to prevent contamination of the River Bure; these will be secured by planning condition, which satisfies concerns of the Broads Authority and ecology officers.

The LLFA is satisfied that the scheme will address existing and future flood risk, and provide the optimum drainage solution for the site constraints. The car park will create minimal difference to the drainage assessment, being a permeable gravel surface and infiltrating naturally. The precise construction details of the surface water drainage scheme and its mitigation measures can all be secured by planning conditions which would include continued maintenance and management of the SuDS in accordance with the submitted details.

The Broads Authority have again confirmed that the discharge into the River Bure will not encroach on navigation and would not need a navigation works licence. The Broads Authority has no objection to the proposal for excavating and laying the drainage pipe within their planning authority boundary, subject to conditions requiring the archaeology investigations around Church Farmhouse, tree management and root protection, and subject to the LLFA being satisfied that the scheme will not increase flood risk on or off-site, including to properties on Meadow Drive. Conditions applications will include liaison with the LLFA and Broads LPA.

## **(7) Foul Water Drainage**

Foul water is proposed to connect into the existing sewer in Meadow Drive. There are clearly issues with blockages and flooding of the existing system as some residents in the eastern end of Meadow Drive have experienced foul sewage flooding as recently as January 2018, rendering homes unable to use their bathrooms. However, there remain conflicting views and uncertainty as to the nature and origins of these problems and it is unlikely to be resolved in the near future, and Anglian Water has said they have no plans to investigate the issue definitively or provide remedy. In terms of the local network, Anglian Water nevertheless considers there is capacity to accommodate the new homes without exacerbating the existing problems.

The overall local waste water treatment capability has also been assessed. Anglian Water has factored-in other permissions and flows from existing dwellings east of Meadow Drive and has confirmed both the treatment centre and the pipe network has capacity to accommodate this development and other permissions for 120 dwellings in Salhouse and Wroxham; based on the last 5 years' of flow data, there is sufficient headroom available to still remain within the Environment Agency's phosphorous discharge limitations. Anglian Water have confirmed any ongoing issues with the sewage connection are an operational matter for them to resolve, rather than a capacity issue. It is not possible to require the applicant to address existing problems east of Meadow Drive, such a proposal would not be reasonable against the NPPF tests for use of conditions.

## **(8) Design, layout and residential amenity**

The scheme layout has recognised the sloping topography of the site and proposes bungalows within the upper reaches of the slope, 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.

The layout provides between 35m - 45m separation distance between existing and new dwelling windows; in comparison the North Norfolk Residential Design Guide SPD has a recommended minimum separation 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 design and external appearance of the affordable housing units would not be markedly different from the open market housing and the materials would use the same palette of bricks, windows and roof tiles for both, which can be secured by way of planning condition(s). The Strategic Housing Manager is satisfied that the designs are appropriate and are consistent with the fenestration of other 2-bedroom and 3-bedroom market housing. The overall effect is a high quality design of development comprising a range of housing types and sizes.

The path onto Meadow Drive is considered an important route to introduce permeability into the site and provide connection with existing communities, as well as a convenient alternative route towards the village centre.

The proposals include a play area and public open space in the south-eastern corner at the top of the path to Meadow Drive. This is acceptable, albeit the best possible urban design solution would be to provide a central play area. In the proposed location, the activity and sense of openness provides a degree of purpose and overlooking to the southern access link.

The applicant has included a number of design features to provide surveillance of the play

area from the closest homes, including carefully positioned windows to increase sight lines at ground and first floor level, as well as benches to promote its use. The landscaping leading to Meadow Drive will be maintained meadow grass, which reduce likelihood of play activity directly adjoining neighbouring properties.

This part of 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 much-improved financial contribution now proposed to enhance that facility.

Save for the occasional noise from its use, there are not considered to be any detrimental impacts on residential amenity from the proposed new car park.

Use of the car park should be controlled by conditions – to be used only in association with the Church and its activities – so to minimise impacts on future neighbours and minimise traffic impacts and to minimise the duration of detrimental impact on heritage setting.

Lighting and boundary treatments and location, design and noise of air source heat pumps would both be controlled by conditions.

As such, subject to the imposition of conditions, the proposal would comply with Development Plan policies relating to residential amenity. Although some residents are concerned that their human rights to a respect for privacy and peaceful enjoyment of possessions would be compromised, it is considered that the wider public interest outweighs these concerns. The Human Rights Act 1998 requires a respect for private lives, but preservation of existing privacy cannot be guaranteed and the assessment of amenity has taken due account of separation distances, screening, form of designs and topography of the site; this is an important the material consideration but the overall assessment has determined the public interest in favour of the scheme is sufficient to outweigh the compromises to certain levels of privacy in certain existing dwellings.

#### (9) **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 (to be determined by conditions). The applicant's ecology report found there was no evidence of reptile or barn owl habitation on site, though retaining the northern field for re-use as a meadow or farming to conservation-principles would provide suitable foraging ground for barn owls and kestrels, and encourage wildlife in general. This will be achieved through a conservation management plan as a requirement of planning obligations.

Although a badger sett is within the site, it is not likely to be affected by development, and pre-commencement planning conditions can be imposed to ensure the site and the adjoining woodland is monitored for badger, reptile and barn owl presence surveys; if necessary a Natural England licence would be prepared and mitigation measures proposed. This is already accounted for in the applicant's ecology proposals.



The application includes an ecology enhancement plan showing the various ecological features that are proposed on the site including the location of bat boxes (2), hedgehog holes in boundary fences (17), log piles (2) and bird boxes (2). These will also be required by conditions. The Council Landscape and Ecology Officer has identified the boundary treatments to need further consideration and provide for small mammal access at regular intervals, not just on rear boundaries with woodland as shown on the Ecological Enhancements Plan.

In respect of the field fronting on to Hoveton Road, the applicant has included this northern field within the application 'red line' area so planning conditions should be used to require a conservation management plan for the meadow / retained field, as well as further presence and absence surveys as necessary. The applicant has confirmed this land would be managed and maintained by Hoveton Estate and a management and maintenance regime for this land would need to ensure its primary focus is to deliver biodiversity/ecology benefits and provide the continuous walking circuit around the perimeter.

#### (10) **Impact on Designated Sites**

Although the application site is not located within a designated site, the proposals have been assessed for its potential to create significant effects on the following nearby designated sites:

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

As requested by Natural England, a Habitats Regulations Assessment was undertaken to identify and examine any potential impact pathways to the designated sites listed above. Impacts could come 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. This would be secured by planning condition.

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 previously confirmed the development is in the catchment of Belaugh Water Recycling Centre, there was capacity for these flows in the Summer of 2017, and the discharge permit can accommodate these

flows alongside other major developments with planning permission in the same water treatment catchment, such as Wroxham and Salhouse.

The applicant has provided the same Habitats Regulations Screening report as with the previous application, and a Habitats Regulations Assessment (HRA) was subsequently completed by the Council's Landscape Officer. This concluded there would be no likely significant effects on designated Natura 2000 and national sites subject to the following mitigation:

- Implementing standard construction best practice and due diligence measures;
- The use of an oil/chemical interceptor in the surface water drainage system;
- A contribution of £50 per dwelling to contribute to a programme of monitoring and if necessary mitigation, to assess the impact of the development on the SAC/SPA/Ramsar; and
- On site public greenspace and a circular dog walking route.

Natural England have subsequently confirmed that they agree with the findings of the HRA and have no objection to the proposed development but advise that the development will need to provide:

- a financial contribution to NNDCs Habitats Regulations monitoring work to monitor effectiveness of the mitigation measures; and
- educational information to new residents to highlight the importance of sensitive areas and sustainable recreational destinations.

These mitigation measures would be secured in the Section 106 agreement through the Visitor Impact Mitigation contribution and the Norfolk County Council Green Infrastructure public awareness contribution, so it is considered the HRA matters are satisfactorily addressed.

#### (11) **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 the site layout is considered to be the most rational possible for the quantum of development required, even with the addition of the new car park.

Archaeology has been examined through a geophysical survey within the Church Fields site which has identified a large former quarry within the central area, some of which would be affected by the development. The Historic Environment Services have reviewed the survey and consider the site to have some archaeological potential but the scheme is suitable subject to securing a programme of archaeological work by conditions. In this case the works would need to include informative trial trenching to determine the scope and extent of any further mitigatory work that may be required (e.g. an archaeological excavation or monitoring of groundworks during construction).

The Broads Authority have also identified that the area of the pipeline to be laid around Church Farmhouse Norfolk could have archaeological implications and should be subject to

conditions. The applicant has confirmed they accept and can accommodate such conditions. The Norfolk County Council Historic Environment Service have indicated that they can provide a brief for the archaeological work required.

Other issues such as site contamination, energy efficiency and renewable energy generation, wildlife enhancement, lighting, and boundary treatment landscaping should all be secured by planning conditions.

## (12) **Planning obligations and public benefits**

### Car park

The new car park is proposed as a part of the development within the red line of the site so can be secured by way of planning conditions linked to the development of the housing, rather than through planning obligations.

In combination with the residential development and access road, the harm from the car park would further increase and exacerbate the level of harm caused to heritage assets, which was discussed in detail above. The combined impacts mean the harm has increased in its severity, but these are considered to remain “less than substantial” in nature.

The direct public benefits associated with the proposed car park include removing the rough layby on Horning Road and reinstating the verge landscaping, which would improve the general approach to Hoveton and improve the safety of parking arrangements which are currently unsatisfactory and a hazard to road users and church users alike. The car park will also allow improved use of the church. On balance it is considered that the individual harm caused by the car park would be marginally outweighed by its benefits, which can be secured by planning conditions.

In considering whether there are now sufficient additional public benefits presented to outweigh the overall increased level of harm caused to the significance of heritage assets, it remains the opinion of Officers that the overall public benefits of this proposal do outweigh the less than substantial harm caused.

Members of the Development Committee should note that the discussion and reasons for refusal of the former application PF/17/0696 did not consider there to be an unacceptable impact on heritage assets. There is now an additional impact on the heritage value of the Grade II\* listed Church of St John and, to a lesser extent, the setting of the Broads landscape. Members should not consider the application suitable for approval unless they are satisfied that the level of additional public benefits (both the car park and additional play space contributions) are sufficient to weigh in favour of the additional harm caused by the car park.

Requiring provision of the car park must be deemed necessary to make the scheme acceptable. Officers consider that this part of the proposal provides some notable improvements to the use of the church, and to the landscaped approach to the village, and to road safety, and as such it would provide the additional public benefit that the Development Committee considered to be lacking in the previous application. It would be necessary to ensure the car park is provided well before the completion of the scheme to increase the likelihood of its delivery, the timescales for which will need negotiating with the applicant.

### Public open space and recreation contributions

In the absence of on-site provision, financial contributions would be required for off-site public open space (£27,710), informal green infrastructure (£10,353), allotments (£13,642) and children’s play facilities (£12,400) in accordance with the pro-rata space requirements of the

draft Open Space Study (2006) and Core Strategy Appendix A.

The development is providing appropriate 'natural greenspace' within the scheme and some play area for young children on site, and a financial contribution is required for allotments enhancement and improvement (£13,142 to be spent at Horning in the first instance). The on-site play provision is approximately half the amount required, so a financial contribution of £33,710 would be expected for the balance. The applicant has accordingly proposed to increase the previous financial contribution to public open space and play equipment provision from £4,050 to £30,000.

The allotment contribution should be spent on the allotment site with greatest need and opportunities for enhancements/expansion ideally within a 2.5km radius of the site, in accordance with the Core Strategy Appendix A. In the first instance this is Horning parish allotments, but the final use may be negotiated for other public open space use and/or location.

The £1,250 Visitor Impact Mitigation contribution is also proposed to assist with monitoring and mitigating against the impacts at designated national and European nature sites.

The applicant will also provide the £1,500 green infrastructure contribution required by Norfolk County Council for improving access to public rights of way and new education/info packs.

#### Employment development

In addition to providing Building A at Littlewood Lane to the terms described below, the applicant also proposes that the reserved matters application for Building B on the Commercial Site will be submitted prior to the start of residential building works at Church Field. This will enable a quicker delivery of the second-largest building of the associated Littlewood Lane employment site.

Officers consider the following section 106 agreement commitments to be necessary:

- 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.
- No works should take place until a contract has been let for the construction and completion of Building A to 'practical completion' in readiness for occupation.
- A valid full planning or reserved matters application(s) to be submitted for all matters for Building B of the outline Commercial Site approved under PF/16/0733 prior to the commencement of dwelling construction on the residential Church Fields site.
- None of the private homes should be progressed beyond foundation level until Building A has been completed.
- Other than the 7 affordable dwellings, none of the market 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 any Church Fields housing, a marketing strategy needs to be agreed for use in the event that if Benthic Solutions Ltd occupy and then move out of Building A within 12 months the building will be available and advertised.
- A valid full planning or reserved matters application(s) to be submitted for all matters on

the remaining parts of outline site approved under PF/16/0733 (indicated as buildings C and D) whilst the current planning permission remains 'live' (the outline pp remains extant to 10 March 2020). In the event of the Reserved Matters applications being withdrawn or refused, the outline site will also need to be marketed.

Although submitting these subsequent applications would neither guarantee their approval nor ensure the employment buildings are built, it would nevertheless improve the viability of the employment development, would remove a barrier to the site being developed, would improve the marketability of the Littlewood Lane site, and generally encourage employment development.

#### Affordable housing

The applicant has not proposed any changes to the viability assessment considered in July 2017, but explains that the increased costs of the project for the new car park and additional play equipment contribution would be met by compromising former profit and land value expectations. The viability assessment and costs of development are considered by planning officers to be justifiable and reasonable but the scheme will nevertheless under-provide affordable housing though it will meet the requirements of other obligations.

The development includes the car park as a part of the scheme, not as a planning obligation, so the costs or provision are non-negotiable, and there are separate benefits associated with the car park that are considered to outweigh its impacts. This application should be considered on its own merits and the car park costs should not be seen as something that could be spent on other obligations such as off-site affordable housing.

In the opinion of planning officers, if any financial contributions are diverted away from the uses proposed below and used for off-site affordable housing instead, the impacts will only increase (on services such as education and play provision) with less means to address them. It is considered that the current on-site provision of affordable housing is justified and if the quota was increased it would create unresolvable issues and make the scheme unviable as proposed.

The proposed tenure of the 7 affordable dwellings does not achieve the required 80% affordable rent and 20% intermediate tenure (shared equity) expected within policy HO 2. It has been considered whether the scheme could provide a more policy-compliant balance of 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. 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.

It is proposed that affordable housing should be delivered prior to completion of the market dwellings, with 50% (4 dwellings) of the Affordable Houses to be ready for use prior to completion of 50% (9 dwellings) of the market houses, and the remaining 3 affordable dwellings to be ready prior to 80% (prior to the 14<sup>th</sup>) non-AH house.

#### On-site recreation and environmental enhancement

The development shall provide circular walks within and around the woodland and northern field, to be accessible to the public in perpetuity, and with features such as dog litter bins, benches and signage as well as improved links from the development. Appropriate management and maintenance proposals will also be necessary.

The northern field is also within the application site and a conservation management plan for

this area will need to be agreed to ensure that its use is (i) maintained for beneficial environmental purposes, and (ii) able to enhance biodiversity.

Whilst planning conditions will secure provision of the on-site play area, the section 106 agreement process will also have to agree details of the management and maintenance proposals of this and other incidental landscaping.

Management and maintenance proposals will also be needed for the drainage system.

#### Other section 106 terms

The range of planning obligations will also include the £93,152 education contribution and £1,875 library contribution required by Norfolk County Council.

The developer will also provide the 900sq.m. graveyard and £15,000 maintenance sum to the Church of St John, prior to completion of the last house.

A contribution to secure a Traffic Regulation Order will also be needed, to enable the temporary 20mph zone and relocation of the 30mph area.

No contributions were requested from NHS England.

Norfolk County Council's request for a fire hydrant will be addressed by planning condition.

#### **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, car park 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 and Broads National Park, although the level of harm remains 'less than substantial'.

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 by proposing residential development outside the settlement boundary.

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 and the 12-space car park for use by the church, and associated benefits to highways safety. In addition, the application has addressed as many of its impacts as possible through planning obligations, save for the compromised affordable housing provision which is considered to be the optimum number and tenure possible within the overall viability of this enabling development.

It has been confirmed that the scheme has an acceptable level of viability to be considered as a mechanism for enabling development which can only be reasonably accepted if it is facilitating and helping provide the commercial development. There are reasonable grounds to believe the employment site will be provided if this development is approved, although if the commercial site should not proceed the planning obligations should ensure that the residential development also does not proceed.

This residential development will therefore 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.

The public benefits of jobs growth, through construction of both sites and subsequent extension of the Stalham Road Industrial Estate, and a marketing scheme for the commercial site and further 'approved commercial sites', are considered significant to Hoveton where there are few available and deliverable alternative employment areas, whilst the relocation of the business from the existing premises offers an opportunity 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 and the car park which can be restricted to use by the Church, can both attract some, albeit limited, wider public benefit in favour of the proposal.

Whilst the planning decision is finely balanced, the opportunity to positively support and enable business growth through linked 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:

- (1) Subject to the prior completion of a Section 106 Agreement to include the list of planning obligations set out above; and,
- (2) Subject to imposition of appropriate conditions (including a shorter timescale for implementation), to be presented at the development committee meeting; and,
- (3) Subject to any other conditions or S106 Obligation requirements considered necessary by the Head of Planning.

- (2) **PASTON - PF/16/1743 - Demolition of existing Block 3 (16 units) and replacement with 8 units (6 no.2 beds and 2 no.3 beds) of holiday accommodation; Mundesley Holiday Centre, Paston Road, Mundesley for Mundesley Holiday Village Ltd**

### **Major Development**

**- Target Date: 22 December 2017 (Extension of time agreed until 30 January 2018)**

Case Officer: John Dougan

Application for Planning Permission

### **CONSTRAINTS**

- Area of Outstanding Natural Beauty
- Undeveloped Coast
- Coastal Erosion Constraint Area (20, 50 and 100 years)
- Countryside
- Controlled Water Risk - High (Ground Water Pollution)
- Contaminated Land Buffer

### **RELEVANT PLANNING HISTORY**

- PLA/19882086 - Erect indoor bowls green for use by holiday residents and two tennis courts. Approved 27/02/1989
- PLA/19951624 - Demolish and rebuild accommodation block. Approved 27/02/1996
- PLA/19961195 - Replacement accommodation block. Approved 25/11/1996
- PLA/19971723 - New roof and brick outer skin to upgrade kitchen and food preparation area. Approved 13/02/1998
- PLA/20021538 - Improvements to foul and surface water drainage systems. Approved 29/11/2002
- PF/15/1198 - Demolition of accommodation Block B, swimming pool and laundry. Use of land to station 21 holiday lodges, reception building, wardens accommodation together with realignment of internal roads and associated landscaping. Approved 29/04/2016
- PF/16/1521 - Provision of Pitched Roofs on 3 Existing Accommodation Blocks. Approved 16/01/2017
- PF/16/1750 - Erection of 12 two bedrooled units of holiday accommodation. Withdrawn by Applicant 07/04/2017

### **THE APPLICATION**

Seeks demolition of existing block 3 (16 units) and replacement with 8 units (6 no. 2 beds and 2 no. 3 beds) of holiday accommodation.

The description of the proposal has been amended to reflect changes to the application proposal.

### **REASONS FOR REFERRAL TO COMMITTEE**

Members will recall that this application was deferred at the Development Committee on 20 December 2017 in order for a site inspection to be carried out prior to determination. The site visit is scheduled to take place on 18 January 2018 in advance of consideration at the following Development Committee meeting.

The application was originally called in to Committee at the request of Cllr Barry Smith in light of the range of complex planning issues relating to coastal erosion affecting the site.

### **PARISH/TOWN COUNCIL**

Paston Parish Council - No objection.

Mundesley Parish Council - Support



## REPRESENTATIONS

Open Spaces Society – The route described as an access track to the highway is a public right of way known locally as Yarmouth Loke (an old public road) and it is intended that an application will be made shortly to Norfolk County Council to claim the addition of this route to the definitive public rights of way as a restricted by way. In our opinion the extra traffic movements generated by the extra units proposed would adversely affect walkers and riders enjoyment of this part of the AONB.

A representation was received on 31 December 2017 stating that they were told that they would have access to one parking space directly outside their bungalow. As a blue badge holder this was of great importance to us. Having raised this on numerous occasions with site management and the owner we are now told this will not happen and the car park is some 500 metres away. What consideration was given to the provision of parking and in particular disable parking during the planning process?

## CONSULTATIONS

It is acknowledged that the description of the application and amount of development has now changed to address outstanding concerns raised by the Lead Local Flood Authority. In view of the change including the removal of block 5 and therefore a net reduction in holiday accommodation, it was not considered necessary to re-consult all consultees or provide new site / press notices.

Consultee	Object /support /comment	Summary/comment
Norfolk County Council - Lead Local Flood Authority	No objection	Previous concerns relating to drainage and cliff stability have been resolved by the revised plans. No objection subject to imposition of a condition in relation to detailed designs of a surface water drainage scheme.
Norfolk County Council - Highway Authority	No objection	Subject to condition requiring provision of visibility splays onto C634.
Norfolk County Council – Public Rights of Way	Comment	The information provided indicates that the amount of holiday accommodation is decreasing so therefore no reason why this access route could not coexist with a public right of way.  No registered public right of way through the site, but historic evidence that the route may have had restricted byway rights. It is possible that a claim to record the route on the definitive map could be received by the County Council at any time for further investigation. If the landowner is willing, they could possibly dedicate the route as a public right of way to enable PRow team to record the route on the definitive map more quickly.
Norfolk County Council – Historic Environment Service	-	No comments received

Anglian Water	-	No comments received
Environment Agency	-	No comments received
Natural England	No objection	No objection in respect of the development's impact on the SSSI Mundesley Cliffs SSSI.  Consultation response provides comment on considering the impact on the AONB and protected species.
Norfolk Fire Service	No objection	Subject to the proposal meeting the necessary requirements of current Building Regulations 2000 – Approved Document B (volume 1 – 2006 edition, amended 2007).
Norfolk Coast Partnership	Comment	The proposals are unlikely to significantly change the existing landscape.
NNDC – Environmental Protection	Comment	Noted that the submitted FRA states that foul water flows from the site will be lower than historically agreed by Anglian Water. However, suggest an informative be added to contact Anglian Water with regard to changes in foul sewage discharge.  Other informatives recommended in relation to dealing with asbestos, waste disposal, demolition and contaminated land.
NNDC – Landscape Officer	No objection	The landscape section does not object in respect of the developments impact on the Mundesley Cliffs SSSI and the AONB.
NNDC – Building Control	Comment	Only the external materials cause concern with the weatherboarding specification not clear (this should achieve 30 minutes fire resistance and a class O surface spread of flame rating).  The opposing windows are fairly close to the boundary lines, although acceptable.
NNDC – Coastal Strategy Manager	No objection	No objection subject to the necessary planning conditions.  Clarification is needed as to whom has responsibility for the demolition and reinstatement works when the units are near to being lost due to coastal erosion (land owner or leaseholder). These details should be agreed before works starts.  The units are about 60m or so from the edge at the moment and a safe distance will be needed to allow demolition and clearance works to be carried out. A safe distance of 30m from the cliff edge is suggested as it provides room/time to reassess in the future (coastal vulnerability assessment), make decisions or

		ensure demolition.
Paston Parish Council	No objection	No further comments
Mundesley Parish Council	Support	No further comments

## 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

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

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

Policy SS 5: Economy (*strategic approach to economic issues*).

Policy EN 1: Norfolk Coast Area of Outstanding Natural Beauty and The Broads (*prevents developments which would be significantly detrimental to the areas and their setting*).

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 3: Undeveloped Coast (*prevents unnecessary development and specifies circumstances where development replacing that threatened by coastal erosion can be permitted*).

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

Policy EN 11: Coastal erosion (*prevents development that would increase risk to life or significantly increase risk to property and prevents proposals that are likely to increase coastal erosion*).

Policy EN 12: Replacement of development affected by coastal erosion risk (*specifies the*

*circumstances under which development affected by coastal erosion may be relocated).*

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

Policy EC 3: Extensions to existing businesses in the Countryside (*prevents extensions of inappropriate scale and that would be detrimental to the character of the area*).

Policy EC 7: The location of new tourism development (*provides a sequential approach for new tourist accommodation and attractions*).

Policy EC 8: Retaining an adequate supply of mix tourist accommodation (*specifies criteria to prevent loss of facilities*).

Policy EC 9: Holiday and seasonal occupancy conditions (*specifies the conditions to be attached to new unserviced holiday accommodation*).

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*).

## **THE SITE AND SURROUNDINGS**

The wider site consists of a former holiday camp which is understood to date back to the 1930s.

The holiday village (blue line) until recently consisted of a number of small chalets with communal facilities including cafeteria, bar, games room and entertainment area. The camp has been in declining condition for a number of years and it is recognised that the holiday model previously offered at the site is no longer attractive to families or viable without significant financial investment. The site was recently bought by the applicant and works have already been undertaken to renovate a number of the chalets which has included converting a number of multiple units into larger units so as to be able to offer modern standards of accommodation.

Planning permission (PF/15/1198) was granted for 21 holiday lodges and office/reception building and wardens accommodation together related access tracks, parking and landscaping – located west of the application site.

The nearest heritage assets include:

- Stow Hill Windmill, Stow Hill, Mundesley Road, Paston (Grade II listed) – a tower mill dating from 1827; approximately 400 metres to the west
- Mundesley Conservation Area approximately 500 metres to the north-west

Block 3 (the revised development area) consists of 16 one – two bedroom holiday chalets and are of single storey 1930's construction, being of a rather tired condition.

The application site is also located in an Area of Outstanding Natural Beauty (AONB) and designated as Undeveloped Coast. It is also in the 50 - 100 year Coastal Erosion Constraints zone.

Block 3 is outside the Impact Risk Zone for the Mundesley Cliffs Site of Special Scientific Interest (SSSI) approximately 65 metres to the north-west.

## MAIN ISSUES FOR CONSIDERATION

- Principle of Development
- Coastal Erosion and Flooding
- Biodiversity
- Landscape and Impact on the AONB
- Design
- Heritage impact
- Highways and access
- Amenity

### Principle

The site lies within the countryside policy area where Core Strategy Policy SS 2 would support proposals relating to recreation and tourism subject to compliance with other relevant core strategy policies. In particular, Core Strategy Policies EC 3 and EC 7 are relevant when considering extending existing businesses in the countryside and the location of new tourism related development together with relevant landscape policies (EN 1 and EN 2) when considering the site's location within the Norfolk Coast Area of Outstanding Natural Beauty.

Given that the proposal involves the provision of replacement holiday buildings on the site of a former holiday complex, subject to, amongst other things, the external appearance of the buildings being considered acceptable and subject to matters relating to coastal erosion being carefully assessed, the principle of replacement holiday units in this location is considered to be acceptable.

### Coastal Erosion and Flooding

A large part of Mundesley Holiday Village lies with the Coastal Erosion Constraint Area (20, 50 and 100 years) and this includes the replacement units proposed as part of this application.

Core Strategy Policy EN 11 seeks to recognise the risk posed to development and their inhabitants in areas of coastal change. In particular, this policy requires that new development or the intensification of development or land uses in the Coastal Erosion Constraint Area will not be permitted, except where it can be demonstrated that it will result in no increased risk of life or significant increase in risk to property. The policy also states that in any location, development proposals that are likely to increase coastal erosion as a result of changes in surface water run-off will not be permitted.

In assessing the likely risk associated with coastal change, consideration should also be given to the Shoreline Management Plan (adopted 2012). In particular, SMP6 - policy unit 6.09 relates to the stretch of coastline from Mundesley to Bacton Gas Terminal. The Shoreline Management Plan (SMP) sets out a general long term approach of managed realignment for this section of coastline. Key extracts of this policy include the following:

- Existing timber revetments and groynes in this section will not be maintained (they have already well exceeded their designed lifespan)
- The predicated implications are that parts of 'Mundesley Holiday Camp' will be lost through loss of cliff together with surrounding agricultural land

In considering the risk associated with redevelopment of this part of the site, the replacement units would be within an area of land identified as being lost to coastal erosion within 50 to 100 years. (2055-2105). Whilst the proposal amounts to a net decrease in the number of holiday units from that currently found in block 3 i.e. from 16 to 8, the size of each unit will increase (6 x 2 bed units and 2 x 3 bed units) being more akin to residential accommodation which

increases the likelihood of year round occupation of each unit.

Residential units would normally have a predicted lifespan of 100 years. However, in this case, because of the risk of coastal erosion there is no guarantee that the units proposed would survive or be capable of being safely occupied if the rate of coastal change occurs as predicted in the SMP. Whilst some may dispute the rate of coastal change set out in the SMP, the expected loss of existing timber revetments and groynes along this stretch of coastline mean that rates of cliff loss could change in the coming years. However, in the absence of any evidence to counter the rates set out in the adopted Shoreline Management Plan, Officers consider that considerable weight should be afforded to the SMP as a material planning consideration.

If the Committee are minded to approve the proposal, officers advise that consideration be given to the permanency of any planning permission granted. Through discussion with the Council's Coastal Manager, a set of planning conditions have been drafted which take account of the Coastal Erosion Constraint Area and which limit the lifetime of the proposed units to 2055 (based on the SMP) or to a point when the units are within 30 metres of the cliff edge. These are considered to be pragmatic conditions which reflect the known risk and which allow the opportunity for review in the event that the rate of coastal erosion is lower than anticipated within the SMP.

The suggested conditions have been shared with the applicant for consideration and comment. With the suggested condition 3 (see below), the applicant considers that they would not be able to sell any of the units if it was known, after searches were carried out by solicitors, that the units were on a temporary permission. The applicant has indicated that he would not consider making a capital investment of constructing the units as it would be unlikely he could make a return on his outlay. The applicant is aware that the cliff edge in this area has not altered significantly for many years but also recognises that there is a policy in place in the Local Plan and decisions have to reflect this. Ultimately the proposal hinges on the predicted rate of coastal erosion.

Whilst it is recognised that the dwellings are not intended to be someone's sole or permanent dwelling and any purchaser will likely be aware of the erosion risk as a result of searches, the units would still be capable of all year round occupation and this has led to the suggested conditions from officers, notwithstanding the desires of the applicant to receive a permanent permission enabling 99 year leases to be sold.

The applicant has put forward alternative wording for condition 3 as follows:

*This permission is subject to be reviewed in the future, if the cliff erosion encroaches to within 20 metres of these buildings.*

*A survey shall be carried out by a qualified surveyor to assess the risk to the buildings, and the risk of staying in the said buildings, and an appropriate management plan will be agreed in writing with the local authority. This may involve some sea defence work to protect the Village from further erosion.*

*If the said buildings encroach to within 15 metres of the cliff edge,*

*The said buildings will then be surveyed and if there is any imminent risk to them falling over the cliff:*

*If the said buildings pose no immediate threat, then a bi-annual survey should be carried out to ensure this remains the case*

*If the surveyor finds them to be of threat the Mundesley Holiday Village owner will take the necessary steps to vacate the units expeditiously. Then they should be demolished and removed from the site, and the land restored to grass.*

*An appropriate location may be offered to substitute this permission, for another similar range of holiday accommodation, if it meets the said requirements of the local authority*

*policies at the time under the rollback policy.*

Whilst this alternative wording could be refined further, Officers consider that it does not adequately address the issue of coastal erosion and the safety factor needed to enable demolition works to take place once the cliff edge gets close to the buildings such that they would be longer capable of being safely occupied. Whilst ultimately it is a matter of planning judgment, Officers consider that the issuing of a permanent permission would not be appropriate as the applicant has failed to demonstrate that the development will be safe over its planned lifetime as the NPPF requires. Therefore the alternative timescale put forward as set out in Condition 3 below should form the basis of any permission, if the Committee are minded to approve the proposal.

In respect of other coastal related matters, the Coastal Management Team encourages in coastal locations positive water management systems whereby surface water is removed from the coastal zone, transferred below beach level or managed in such a way to prevent exacerbation of potential groundwater driven cliff failures. The suitability of on-site sustainable urban drainage has been investigated with the input of the Lead Flood Authority and is considered acceptable subject to conditions.

It is acknowledged that no response has been received from the Environment Agency or Anglian Water in respect of the suitability of on-site foul water drainage. However, as the development amounts in a net reduction in the number of holiday units it is unlikely that any significant impact on receiving watercourses would result. Nevertheless, it is recommended that any decision notice have an informative reminding the applicant that in the discharge rate cited in the Flood Risk Assessment changing, that they contact Anglian Water for advice on acceptability.

Subject to appropriate conditions securing further details relating to coastal adaption and surface water management being submitted and agreed, the proposal would be unlikely to significantly increase the risk of coastal erosion and would accord with Core Strategy Policies EN 10, EN11 and EN13.

#### Biodiversity

The development site is not within the Mundesley Cliffs Site of Special Scientific Interest (SSSI) and is outside of the Impact Risk Zone. Therefore, in view of Natural England and the Councils Landscape Officer confirming that the indirect impact of the development on the SSSI is likely to be minimal under current coastal protection strategies, the development is considered compliant with Core Strategy Policy EN9. Nevertheless, the condition recommended by the Coastal Management team provides the Local Planning Authority with an opportunity to re-evaluate the impact on the cliffs in the context of changes to future coastal management strategies.

#### Landscape and Impact on the AONB

The site is located in the Norfolk Coast Area of Outstanding Natural Beauty (AONB) and designated as Undeveloped Coast. In view of the response of the Norfolk Coast Partnership and the Council's Landscape Officer, the development is considered to be in general accordance with Core Strategy policies EN 1, EN 2 and EN 3.

#### Design

The proposal is of scale and design which will be an improvement to the rather tired facility, being of a similar style to other upgrade works underway on the site. The scheme is therefore considered to be in accordance with Core Strategy Policy EN 4.

### Heritage Impact

In view of the location and form of the development, it is unlikely that it would result in any significant harm to the setting of the nearby Listed Buildings and Conservation Area. It is therefore in accordance with Core Strategy policy EN 8.

### Highways and access

In terms of parking provision, the 8 holiday units the subject of this application will be served by the existing permeable car parking area located 10 metres west of block 3 as indicated on Phase IIB Car Parking Plan (Drg no.13 rev A). The planning authority has no control over the private agreements between occupants of on-site accommodation and the site manager / landlord. In planning terms, the layout of the wider holiday village and its associated parking provision is extant and outwith the boundary of the current application which is only for the replacement of 16 holiday units with 8 holiday units. The development (8 holiday units) the subject of this application are within 10 metres of the car park, an acceptable distance for those persons having impaired mobility. It is also noted that the applicant has considered this matter in section 7.16 of their Design and Access Statement, including access to each of the holiday units via a 900mm wide path and that surface materials will be chosen to ensure that access does not exclude access to the replacement lodges. Whilst these measures are considered to be acceptable, it is recommended that a condition be imposed to establish the type of materials for any pathways leading from the parking area and around the 8 replacement holiday units.

In view of the comments of the Highway Authority, the development is considered to be in accordance with Core Strategy policies CT 5 and CT 6, subject to a condition requiring that prior to occupation, the necessary visibility splays shall be implemented at the site access.

The comments of the Open Space Society are noted. However, in view of the revised scheme resulting in a net decrease in holiday accommodation, no significant adverse impact on the special qualities of the AONB or quality of the historic right of way is expected. Indeed, the County Council's Public Right of Way Officer has confirmed that a public right of way can coexist with the proposed development.

Nevertheless, it is acknowledged that there is a pending application for the route to be formally registered as a public right of way. Therefore, it is recommended that an informative note be added to any decision notice advising the applicant if they would be willing to contact the County Council to dedicate the route as a public right of way, potentially facilitating its inclusion on the definitive map more quickly.

### Amenity

It is noted that some of the windows are in relatively close proximity to one another and therefore not ideal in terms of safeguarding and outlook of the occupants. However, the development is holiday accommodation and not a primary residence. Therefore, in this context the impacts will not result in any significant loss of amenity for occupants. It is therefore, on balance, considered to be in accordance with Core Strategy policy EN 4.

### Other Issues

Following the advice of the Council's Environmental Protection Officer, it is recommended that informative notes be added to any decision in relation to asbestos, waste disposal, demolition and contaminated land.

In view of the responses from Building Control and Fire Safety Officer, it is recommended that an informative note be added to remind the applicant that the development will be subject to all necessary Building Regulations Approvals.



### Summary

Whilst the principle of modern replacement holiday accommodation is considered to be acceptable, the sites location within the Coastal Erosion Constraint Area suggests that redevelopment will be susceptible to coastal erosion within the typical 100-year lifespan expected of such brick/block built holiday/residential units. Whilst the applicant has indicated a preference to receive a permanent permission so as to ensure the development is viable to construct, Officers consider that there may be alternative solutions which deliver holiday accommodation but with the option to relocate the units at a future point in time when the risk of coastal erosion increases. However, the proposal before Committee is for holiday units of permanent construction and it is on this basis that the temporary permission is recommended. Subject to the imposition of the suggested conditions below, Officers recommend approval of the proposal.

### **RECOMMENDATION: Approval for a temporary/time limited basis, subject to the imposition of conditions as listed below.**

- 1 The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

#### Reason:

The time limit condition is imposed in order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 This permission is granted in accordance with the following plans and documents:

Document received on 26 January 2017

- Asbestos report dated 12 January 2017

Plans and documents received on 14 June 2017

- Location plan (Drg no. 10 rev B)
- Existing site plan (Drg no. 11 rev A)
- Proposed site plan (Drg no. 12 rev A)
- Proposed floor plans for block 3
- Proposed floor plans and elevations 2 bed units
- Proposed elevations for block 3
- Planning statement
- Foul water drainage assessment (Ref. RAC/SJB/161127 rev A dated 23 May 2017)
- Drainage strategy (Ref. RAC/SJB/161127 dated 24 May 2017)

Plans and documents received on 10 August 2017

- Surface water drainage site plan (Drg no. CL-04 rev C2)
- Surface water drainage statement
- SUDs Management and maintenance (Ref. 161127 dated August 2017)
- Drainage routing licence details

Plans and documents received on 28 August 2017

- Car park plan (Drg no. 13 rev A)

#### Reason:

To ensure the satisfactory layout and appearance of the development in accordance with Policy EN 4 of the adopted North Norfolk Core Strategy.

3 This permission is temporary and shall expire on the earlier of 01 October 2055 or at any time when the adjacent cliff edge encroaches to within 30 metres of any of the permitted units and unless on or before then permission has been granted for an extension of the period of this permission:

(a) All the units of holiday accommodation subject to this planning permission shall be vacated

(b) the use of the development (the subject of this permission) for holiday accommodation shall cease

(c) within 3 months of the permitted use expiring, the units of holiday accommodation together with any associated areas of hardstanding shall be demolished and removed and the site restored to grass in accordance with a scheme of works submitted to and approved by the Local Planning Authority

Reason:

In the interests of ensuring that there is no increased risk to life and property within the Coastal Erosion Constraints Area in accordance with Policy EN11 of the adopted North Norfolk Core Strategy and paragraphs 107 and 108 of the National Planning Policy Framework.

4 The development hereby permitted shall be used for holiday accommodation purposes only and shall not be used as the sole or main residence of the occupiers.

Reason:

For the avoidance of doubt and because the site is located in an area designated as Countryside in the North Norfolk Core Strategy where the Local Planning Authority would not normally permit permanent residential accommodation, in accordance with Policies SS2, EC9 and EC10 of the adopted North Norfolk Core Strategy.

5 Prior to the commencement of any development, a scheme detailing the demolition and removal of the 8 holiday units (including hardstanding) and restoration of the land to grass shall be submitted to and approved in writing by the Local Planning Authority. The submission shall clarify the following details:

- A plan and statement confirming the extent of the demolition works to be undertaken including the method of disposal.
- A soft landscaping plan to include the details of any certified imported top soil and grasses to be used as part of the reinstatement process
- A site section to clarify finished levels
- A timetable for the completion of the demolition and reinstatement works.
- Confirmation that in the event that development becomes at risk from erosion earlier, that the demolition schedule will be brought forward.
- Confirmation of whom has responsibility for funding and undertaking the demolition and reinstatement works

Thereafter all works shall be carried out in strict accordance with the details set out in the approved scheme.

Reason:

To ensure that the land is reinstated and buildings/infrastructure are disposed of to

an appropriate quality to safeguard the visual amenities of the area in accordance with Policies EN1, EN2, EN3, EN4, EN11 and EN13 of the adopted North Norfolk Core Strategy and paragraph 107 of the National Planning Policy Framework.

- 6 Details of the external colour finish to the walls and roofs shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be completed in accordance with the approved details.

Reason:

In order for the Local Planning Authority to be satisfied that the materials to be used will be visually appropriate for the approved development and its surroundings, in accordance with Policy EN 4 of the adopted North Norfolk Core Strategy and Chapter 10 of the North Norfolk Design Guide.

- 7 Prior to the installation of any external lighting, details shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall thereafter be installed in accordance with the approved details.

Reason:

In the interests of the visual amenities/residential amenities of the area, interests of highway safety and convenience, and to protect the special Qualities of the North Norfolk Area of Outstanding Natural Beauty in accordance with Policies EN1 and EN 13 of the adopted North Norfolk Core Strategy, as amplified by paragraph 3.3.70 of the explanatory text.

- 8 Prior to commencement of development, in accordance with the submitted Drainage Strategy (Rossi Long consulting, Ref: RAC/SJB/161127, Dated May 2017 including additional supporting information), detailed designs of a surface water drainage scheme incorporating the following measures shall be submitted to and agreed with the Local Planning Authority in consultation with the Lead Local Flood Authority. The approved scheme will be implemented prior to the first occupation of the development. The scheme shall address the following matters:

- a. Provision of surface water attenuation storage, sized and designed to accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 1 in 100 year return period, including allowances for climate change, flood event. A minimum storage volume of 20.4m<sup>3</sup> will be provided in line with the calculations submitted.
- b. Confirmation that there is a connection to the wider watercourse network that will convey flows discharged into it without leading to an increase in flood risk elsewhere including evidence that there is permission to discharge.
- c. Detailed designs, modelling calculations and plans of the of the drainage conveyance network in the:
  - 1 in 30 year critical rainfall event to show no above ground flooding on any part of the site.
  - 1 in 100 year critical rainfall plus climate change event to show, if any, the depth, volume and storage location of any above ground flooding from the drainage network ensuring that flooding does not occur in any part of a building or any utility plant susceptible to water (e.g. pumping station or electricity substation) within the development.
- d. Finished ground floor levels of properties are a minimum of 300mm above expected flood levels of all sources of flooding.
- e. A maintenance and management plan detailing the activities required and detail

of who will adopt and maintain for the existing ordinary watercourses (and any structures such as culverts), sewers and surface water management systems within and adjacent to the proposed development for the lifetime of the development.

Reason:

To prevent flooding in accordance with National Planning Policy Framework paragraph 103 and 109 by ensuring the satisfactory management of local sources of flooding surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the surface water drainage system operates as designed for the lifetime of the development.

- 9 Prior to the first occupation of the development hereby permitted visibility splays measuring a minimum 45m x 2.4m x 45m shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained free from any obstruction exceeding 0.6m above the level of the adjacent highway carriageway.

Reason:

In the interests of highway safety, in accordance with Policy CT 5 of the adopted North Norfolk Core Strategy.

- 10 Prior to the first occupation of the development hereby permitted details of the location, extent and materials of pedestrian pathways from the car park area to / around the 8 holiday lodges shall be submitted to and agreed with the Local Planning Authority. The approved scheme will be implemented prior to the first occupation of the development.

Reason:

In the interests of safe movement of pedestrians from the parking area and around the holiday lodges, in accordance with Policy CT 6 of the adopted North Norfolk Core Strategy.

## **NOTES TO APPLICANT**

1. The Local Planning Authority considers that it has worked positively and proactively with the applicant to address any arising issues in relation to determining this planning application, to secure a policy compliant proposal that has been determined in the wider public interest at the earliest reasonable opportunity, in accordance with the requirements of the National Planning Policy Framework (paragraphs 186 & 187).
2. The Local Planning Authority are aware that the access road to the site is currently subject to a live application to register it as a Public Right of Way. Contact with Norfolk County Council's Public Rights of Way Officer could potentially facilitate its inclusion on the definitive map more quickly. Further details are available on: 01603 222902.
3. In the event of any changes to the foul drainage discharge from the site, it is recommended that you consult Anglian Water.
4. The applicant/agent is advised that any removal of asbestos from the site should be in accordance with the Control of Asbestos Regulations 2006, under which the applicant/agent has a duty of care. Holders of this duty must prevent escape of the waste whilst it is under their control. For further help and advice in respect of asbestos removal the applicant/agent is advised to contact the Health and Safety

Executive (HSE) on 0845 345 0055 ([www.hse.gov.uk/asbestos](http://www.hse.gov.uk/asbestos)).

5. The applicant is advised that businesses require a Trade Waste contract to dispose of all waste associated with commercial activities as stated in the Environmental Protection Act 1990, Section 34. For further advice regarding this matter can be obtained by contacting the District Council's Environmental Protection Team (telephone 01263 516085).
6. The applicant/agent is advised that no person should begin demolition of any building that has a cubic content of more than 49.55m<sup>3</sup> (1750 cubic feet) unless the Local Authority has first been given notice in accordance with Section 80 of the Building Act 1984, and, either the Local Authority has given notice under Section 81 of the Building Act 1984 or the relevant period has expired. The details to be submitted with the notice shall include a scheme for the method of demolition and means of controlling noise and dust during demolition.

Further advice regarding demolition can be sought from the District Council's Environmental Protection Team (telephone 01263 516085).

7. Consideration should be given towards any potential risks to building materials and services, and during construction the risks to workers and the general public should be considered. In the event of potential contaminants being found, it is advised that construction work should cease and the District Council's Environmental Protection Team should be contacted (telephone 01263 516085). Further advice can also be sought from this number.
8. Further guidance on the information required by the LLFA from applicants can be found at <https://www.norfolk.gov.uk/rubbish-recycling-and-planning/flood-and-water-management/information-for-developers>.
9. Discussions during the determination of the application indicated that the applicant has plans for further development on the site. In view of the site constraints such as its Countryside location, being an Area of Outstanding Natural Beauty / Undeveloped Coastal location, Coastal Erosion Constraints Area and being adjacent to the Mundesley Cliffs Site of Special Scientific Interest, the applicant is strongly recommended to enter into formal pre-application discussions before submitting a formal planning application. Such a course of action will assist the delivery of a more co-ordinated approach which takes account of the various site constraints and the long term viability of the holiday village.  
Details of the service can be found at the following link:  
<https://www.north-norfolk.gov.uk/tasks/development-management/what-is-the-pre-application-service/>
10. In the event of the rate of the predicted coastal erosion being lower than anticipated and indicating that there may be scope to extend the life of 8 holiday units, an extension of the 'life time' of the units in question may be considered as part of a **new planning application** which is accompanied by a 'Coastal Erosion Vulnerability Assessment' undertaken by a competent person for the consideration and approval of the Local Planning Authority. The planning application shall be submitted no later than 1st October 2054 and shall include the following information to enable the Local Planning Authority to establish the rate of erosion, vulnerability of the buildings / users and estimated lifespan of the holiday units from 1st October 2055. The submission shall include the following details:
  - Topographic and Geotechnical surveys to determine structural stability of the

cliff on 1st October 2054 whilst in consideration of beach and defence condition

- A geotechnical analysis to determine rate of erosion and predicated rate of erosion post 2055
- Recommendation as to the safe distance the holiday units should be from the eroded cliff edge
- An evidenced estimate as to when the cliff edge will exceed the above recommended safe distance.
- Confirmation of the revised date of the implementation and restoration of the site in accordance with the agreed details in condition 5

11. The development the subject of this application shall be removed in its entirety prior to imminent coastal erosion risk. Such assessment of the time scale for removal should be determined by the relevant Coastal Erosion Risk Management Authority at that time. Removal should be determined based on the understanding at that time of coastal processes and erosion, utilising any available coastal monitoring. Demolition and removal will be at the land/site owners cost and will be completed within a timescales set by the Risk Management Authority. Should the owner fail to comply, the risk management authority (or Planning Authority) will be entitled at their discretion to complete the demolition works and recover cost accordingly.

- (3) **SCOTTOW - PF/17/1057 - Change of use of existing buildings within the enterprise park area from former military use and various commercial uses to a range of B1, B2 and B8 designations (light industrial/office/research and development, general industrial and storage/distribution uses). Use of former taxiways and hard standing areas for low-speed vehicle driver training. Indicative route shown as land reserved for second site entrance; Scottow Enterprise Park, Lamas Road, Badersfield, Scottow for Norfolk County Council**

### **Major Development**

- Target Date: 04 January 2018

- Extension of Time agreed: 09 February 2018

Case Officer: Mr R Parkinson

Full Planning Permission

### **RELEVANT CONSTRAINTS**

Countryside

Airbase Technical Area

Controlled Water Risk - Medium (Ground Water Pollution)

Controlled Water Risk - High (Ground Water Pollution)

Surface Water Flooding

Contaminated Land

Conservation Area

Locally Listed Building

Scheduled Ancient Monument

Tree Preservation Order

Section 106 Planning Obligations

Unclassified Road

### **RELEVANT PLANNING HISTORY** for Scottow Enterprise Park

PLA/1997/0127 - Refurbish Hangar Number 4

Approved 07/03/1997

PLA/2008/1755 - Conversion of former RAF buildings to Category C prison and erection of buildings to provide ancillary accommodation (Broadland District Council Ref. 20081556)  
Approved 09/02/2009

PF/11/0495 - Use of land as a Community Woodland, including car parking and access  
Approved 27/09/2012

PF/12/0070 - Change of use of Hangar 2 to B8 (furniture storage)  
Approved 12/03/2012

BX/14/0422 - Use of land for fire training purposes including the siting of containers, modular buildings and portable toilets (County Council ref: Y/1/2014/1003)  
NNDC Raised No Objection 19/06/2014; Application approved by County Council.

PF/14/0642 - Change of use of former munitions stores to B8 storage  
Approved 18/07/2014

PF/14/0811 - Change of use of Hanger 3 and Building 382 for police training and storage purposes  
Approved 28/08/2014

PF/14/1038 - Change of use of Hanger 4 to B2 and B1 use (general and light industrial use) and associated outside storage  
Approved 13/11/2014

PF/14/1334 - Installation and operation of a ground mounted solar photo voltaic array to generate electricity of up to 50MW capacity comprising photo voltaic panels, inverters, security fencing, cameras and other association infrastructure  
Approved 09/01/2015

PF/14/1365 - Change of use of Building 380 from storage associated with former airbase to B8 storage (storage of empty plastic bottles/caps and cardboard packaging only)  
Approved 12/02/2015

PF/14/1396 - Temporary change of use of Hangars 1, 2 and 3 from military storage to storage of processed sugar  
Refused 09/06/2015

PF/15/0296 - Change of use of part of building/office/training room (Building 349) to use for television and film production office, associated facilities and storage (B1)  
Approved 29/04/2015

PF/15/1292 - Variation of Conditions 5(b), 5(g) and 8 of PF/14/1334 to permit alternative ecological monitoring arrangements and revision to landscaping mitigation  
Approved 19/02/2016

BX/15/1593 - Variation of condition 2 of planning permission ref: Y/2014/1007 for erection of live fire training facility, hard-standing and retention of four fire training containers; plus change of use of Building 440 to provide briefing, mess and rest room facilities and Building 109A for ancillary storage: to allow for variations to the fire training facility and hard-standing area.  
NNDC Raised No Objection 17/11/2015; Application approved by County Council.

PF/15/1829 - Temporary change of use of Hangers 1, 2 and 3 to storage of processed sugar (retrospective)  
Approved 24/02/2016

PF/15/1894 - Change of use of Building 12 to automotive manufacture/hand tools and lifting equipment (B1)  
Approved 29/02/2016

PF/16/0841 - Variation of Condition 4 of permission PF/14/1334 (as varied by permission PF/15/1292 and amendment NMA/14/1334) to allow extended use of the solar park, and Variation of Condition 5 of permission PF/15/1292 to amend ecological mitigation measures and monitoring.  
Approved 07/03/2017

PF/16/0573 - Change of use of Building 262 to a mixed use of B1/B8 and A3, linked to the use of the track  
Approved 05/07/2016

Applications not yet determined:

PF/16/0092 - Change of use of selected existing former military buildings to commercial uses comprising light industrial, general industrial and storage (B1, B2 and B8).  
Application pending decision (held in abeyance whilst application PF/17/1057 is considered).

PF/16/0093 - Change of use of selected existing former military buildings to storage (B8).  
Application pending decision (held in abeyance whilst application PF/17/1057 is considered).

PF/16/0094 - Change of use of Building 261 to mixed use of office/business (B1) and storage (B8), and change of use of parts of the former runway/taxiway/perimeter track for car handling driver training, access, running course and cycling uses.  
Application pending decision (held in abeyance whilst application PF/17/1057 is considered).

## **THE APPLICATION**

The application site encompasses the majority of the former airbase including most of the technical area, all 4 hangers, perimeter track of the runway and service buildings. The former accommodation blocks remain a part of HMP Bure and are outside the Scottow Enterprise Park.

The change of use does not include the central runway, although it is understood an application is being prepared to change the use of the runway under separate proposals.

This proposal seeks to consolidate various existing permissions and those undetermined applications which had positive resolutions by planning committee in 2016 (but which did not progress into full permissions), and extend the permissions to include various new buildings (notably 3 hangars) which have no permanent commercial planning use as yet.

The application also includes the intended route of a new access road into the site. No details of this new road design or construction are proposed in this application, which is change-of-use only for buildings and track. This route is shown only as a feasible alternative to the existing main access, which the applicant proposes will be used only in the event that the site exceeds a pre-determined cap on heavy goods vehicles attending the site. The new route would only be able to be brought into use if it were first approved through specific planning permission and the road constructed / widened.



The application has been submitted with the following supporting documents:

- Supporting planning statement
- Sensitive areas analysis
- Site-wide building schedule
- Cultural and heritage assessment
- Heritage building assessment
- Heritage investment plan
- Air traffic control tower restoration plan
- Hydrology and flood risk assessment
- Flood risk management plan
- Landscape and visual impact assessment
- Noise assessment
- Driver training areas proposal
- Ecological impact assessment
- Transport review and air quality report
- Site traffic management plan
- Plans – site zones, driver training areas, indicative second entrance and access route, existing drainage systems.

## REASONS FOR REFERRAL TO COMMITTEE

Local Member Pecuniary Interest (Cllr Shaw) - The application site includes land within the Scottow Hall Estate.

## PARISH COUNCILS

**Scottow Parish Council** – No comments received.

**Buxton with Lamas Parish Council** – No objection but raises concerns.

- The hours of use are inappropriate for the close proximity to residential properties.
- Using motorbikes in the driver training is inappropriate next to residential neighbours.
- External lighting should be controlled to preserve the dark landscapes and dark skies, and lighting should be fully shielded, directed downwards, timer controlled, and low intensity.

## REPRESENTATIONS

Five letters of representation have been received, all from 4 neighbouring residents objecting to the proposals. The **objections** raise the following concerns:

- Principle
  - The applicant has misled people by stating that the uses have already been previously approved and this is a 'continuation' of existing situations.
  - Previous proposals for limiting engine sizes have not been repeated.
  - The application is not clear about whether it proposes vehicle testing as well as driver training, nor where the activity takes place (i.e. just the runway or the taxiways too?).

- Residential Amenity

*Driver training areas -*

- The taxiways and hard standing areas used for driver training will create noise too close to residents.
- The existing rural tranquillity will be lost especially to the south of the site.
- The driver training start time of 0800 is too early, and on Saturdays is unnecessary.
- Driver training area vehicle speeds up to 40mph is unacceptable.
- Fumes and pollution could be detrimental for people using their gardens.
- The northern area of the runway should be removed from possible driver training uses.
- Existing 20mph speed limits around the site are not observed and must be enforced.
- Noise will be carried further by the prevailing winds.
- The noise report is inadequate, not testing low speeds and high revs, nor for the 40mph speeds if that is proposed.
- Even the revised proposed 30mph limits will be unacceptably noisy, in both noise levels and regularity when compared against the existing absence of noise.

*Runway uses -*

- The runways will evolve into use as a race track and the noise and character of that type of use can be distressing to people with autism, for example, and all residents.
- If the proposed speeds were cut down by just 7mph the noise levels could be reduced by up to 40% (according to the UK Noise Association).
- SEP's proposed Swift Air runway use will be entirely unacceptable, but is not documented anywhere in the application, which undermines the noise assessment.

*HGV and general traffic -*

- The increased HGV movements to the site will cause noise and pollution (including diesel particulates) affecting Badersfield.
- More HGVs and other vehicles will park outside the Badersfield shop, obstructing pedestrians and use of the playing area.
- Concern for health and safety linked to the site operations and storage uses.

- Ecological impact

- Birds of prey and skylarks and bats, otters and newts would be disturbed.
- The northern area of runway should not be used, to protect the skylarks.
- The application has not considered the impacts on skylarks at all.

In addition, some **support** is noted for:

- the comprehensive work already done with the existing buildings.
- the understanding shown to the local community and its concerns.
- turning the Scottow Enterprise Park into a vibrant and successful business facility.

## CONSULTATIONS

**Lead Local Flood Authority** – No objection.

An initial objection was lodged because the initial FRA had shortcomings in its assessment of flood risk to existing buildings or neighbouring sites and the LLFA expected some infiltration-based SuDS systems to be proposed, in light of possible deficiencies with the existing drainage system. This has since been resolved through the revised FRA which

assessed risk and mitigation more effectively and proposed maintenance and management of the existing drainage network. The LLFA now recommends that opportunities be taken to make the buildings more flood resilient, e.g. raising floor levels or electrical infrastructure and fitting non-return valves in the drainage network.

**Highway Authority** – No objection subject to conditions.

The Highway Authority recognises the application is consolidating existing permissions and bringing the whole site into one overriding consent. With this in mind, the level of information provided in the Transport Statement is satisfactory, whereas a full Transport Assessment would only duplicate information previously assessed. The local concern around HGV access through Coltishall is understood, but HGV traffic volumes will be much reduced in comparison to the site's former airfield use until its closure in 2006. When comparing data from 2004 and 2013, traffic counts found approximately 250 more HGVs on the B1150 when the site was operational.

The applicant's proposed limit of 60 HGV movements per day (30 in and 30 out) being allowed to enter the site is supported, but any increase to that would need to be supported by new Transport Assessment counts and supporting evidence in respect of the local highway network, regardless of the proposed site access point.

The scheme will also need to promote sustainable travel as much as is feasible. A Travel Plan has not been proposed yet, but at the least an Interim Travel Plan should be submitted before a decision can be made, and an adoptable footpath should be provided between the site and Badersfield village. Conditions should require: (1) the footpath provision, (2) a Full Travel Plan, and (3) regular HGV and other general traffic monitoring at the site.

**Environmental Health Officer** – Initial objection to driver training areas since removed. No objection to proposed uses of buildings, subject to conditions.

Track uses - as originally submitted, the application would have had unacceptable impacts on residential amenity. The proposal included vehicle testing as well as driver training but had not defined either, nor assessed the impacts of vehicle testing. The initial 40mph suggestion for driver training was not acceptable, because the noise assessment had only considered 30mph. There was no information on the proposed number of driver training areas to be used at any one time, nor the number of vehicles to be used in driver training at any one time. Subsequently the driver training areas, speeds and activities have been revised and clarified and the proposals are acceptable if these are conditioned as such, and if used for no more than 10 days per month and not on Saturdays, Sundays or Public Holidays.

New building uses – the commercial interests of tenants could be detrimentally affected by the noise from both the new industrial activity and driver training, and no details are proposed as to their management. All external doors and windows need to be kept shut during operations. No external lighting should be installed without prior approval.

HGV access – there should be no more than the 30 HGVs / 60 movements per day proposed, before an alternative access is provided. HGV access should not be any earlier or later than the site opening hours of 0800 – 1800 Mon-Fri, 0800 – 1300 Saturdays, and at no time on Sundays / public holidays.

**Landscape and Ecology Officer** – No objection subject to conditions.

The Enterprise Park site is home to groups of protected species and bats, in particular, could be affected by the proposed new uses. Whilst the changes of use would be acceptable in principle, any alterations to the fabric of the building could result in disturbances to protected

species. As a change of use proposal, any permission would not allow for external alterations or extensions without prior permission; an Ecological Impact Assessment would be required to investigate presence and mitigation before any works took place – if planning permission were needed this should be required as part of those applications, if internal works were not subject to planning this is a responsibility of the site owner.

Permissions for the solar farm have already included skylark investigation and mitigation and it is not considered that the limited change of use of the track areas as proposed would create unacceptable impacts or compromise the mitigation measures already required. The applicant should note that any more intensive use of the track and/or runway should be supported by an assessment of the impacts on protected species and skylark populations in particular.

The proposed hedge planting scheme around the north-east perimeter of the solar farm is beneficial to address the 'gap' in screening; conditions should require a slightly improved mix of species and planting strategy. Other controls required should include restricted use of external lighting to avoid impact on protected species and unnecessary light pollution in this remote and particularly dark-sky location.

**Historic England** – No objection to the principle, subject to modifications and clarifications.

The application does not identify the second, undesignated, spitfire fighter pen, but this has value equivalent to designated Scheduled Ancient Monuments. The impacts of the development could result in detriment to the character, appearance and setting of the conservation area and scheduled monuments, caused by works and activities associated with the new uses. It is noted that certain activities are needed to provide an economic function to preserve the heritage assets. However, the application needs to detail how the proposals will provide ongoing management of heritage assets, provide site maintenance, visitor access and availability of archived material; these are necessary to provide public benefit to outweigh the harm caused.

Storage activities proposed in the yards are likely to cause problems for heritage asset setting, related to storing bulky materials at height, and should be controlled by conditions. Further, Yard areas 196 and 220 have not been appropriately assessed; such relevant supporting information either needs revising or these parts of the proposal should be removed.

**Conservation and Design Officer** – No objection subject to conditions.

The proposal is an encouraging indication of heritage restoration, but the site's continued evolution does pose a number of challenges, not least to the heritage value of the site and the level of protection afforded to the remaining structures. As both internal fixtures and fittings and external appearance need protecting, it is important that measures are in place to manage future works; the mitigation proposals indicated are an encouraging basis from which to start. Recording each building and yard prior to any work commencing must be part of a comprehensive and robust management plan for the site, which should also ensure future tenants have to agree a schedule of works prior to undertaking alterations. This will reduce the risk of heritage features being eroded or indeed lost altogether.

Specifically, Yard 94 is adjacent to the designated spitfire pens and would benefit from further screening and tree planting to mitigate the impact on the heritage assets. The height, layout and scale of the storage here also needs to be conditioned. The same restrictions should apply to the yards adjacent to the spitfire pens and blast walls which lie within Broadland District LPA.

The application needs to secure heritage enhancement and interpretation through providing wider public appreciation and access to the heritage assets, because it is vital that the sites heritage does not become an archaic and static presence based on records and documentation. Instead a permanent heritage and exhibition space should be secured which offers periodic dates or opportunities for visits and meetings. This could also run in parallel with a heritage trail and online resources available to the public. Given the control tower's central position and visual landmark status, this building would be the ideal location for such a use.

There is no objection to the principle of any uses proposed, subject to securing the above controls and mitigation. These could be secured through a Conservation Area Management Plan and a Heritage Investment Plan, alongside updates and recording of the buildings and features within the site.

**Norfolk Historic Environment Service** – Objection unless amendments and conditions apply.

The submitted supporting documents do not adequately address the future management of heritage assets at the site. A Conservation Area Management Plan should be produced to inform and determine heritage management, which should be secured by condition. The application should also be revised to address the issues identified in a schedule of amendments listed by the HES, and recommendations therein. The storage areas should be subject to bespoke conditions in respect of height and nature of materials and machinery used in those locations.

## **RELEVANT POLICIES**

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

SS 1	Spatial Strategy for North Norfolk
SS 2	Development in the Countryside
SS 4	Environment
SS 5	Economy
SS 6	Access and infrastructure
EN 2	Protection and enhancement of landscape and settlement character
EN 8	Protecting and enhancing the historic environment
EN 9	Biodiversity and geology
EN 10	Development and flood risk
EN 13	Pollution and hazard prevention and minimisation
EC 2	Re-use of buildings in the Countryside
EC 4	Redundant defence establishments
CT 2	Developer contributions
CT 5	Transport impact of new development
CT 6	Parking provision

### National Planning Policy Framework (NPPF):

Section 1 - Building a strong economy  
Section 3 - Supporting a prosperous rural economy  
Section 4 - Promoting sustainable transport  
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

### Other Material Considerations:

RAF Coltishall Conservation Area Appraisal (adopted 2010)

National Planning Policy Guidance (NPPG): Noise - Paragraph: 003 Reference ID: 30-003-20140306, revision date: 06 03 2014.

Noise Policy Statement for England (2010)

Landscape Character Assessment Supplementary Planning Document (June 2009)

Government Circular 06/2005: Biodiversity and Geological Conservation

British Standard for the Code of Planning for biodiversity (BS42020:2013)

Duties under Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990

The site has gained Enterprise Zone status (granted 1<sup>st</sup> April 2016)

### 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.

## **MAIN ISSUES FOR CONSIDERATION**

- 1. Principle of development**
- 2. Flood risk and drainage**
- 3. Highways safety**
- 4. Highway amenity and alternative access**
- 5. Heritage assets**
- 6. Noise (residential and commercial amenity)**
- 7. Ecology**
- 8. Landscape**
- 9. Other issues**

## **APPRAISAL**

### **Current uses and permission status**

It can be seen from the Planning History noted above that very few buildings within the application site already have planning permission. Although approximately 85% of the Enterprise Park is occupied for commercial purposes, there are many buildings which do not have planning permission in place yet, despite many of those buildings being occupied. The applicant has consistently stated within their submission documents that most of the site already has permission, and this could have been misleading to consultees and the public.

Development Committee did consider three applications for B1 and B2 uses across the RAF Coltishall Technical Area (application PF/16/0092), for B8 uses at the airfield munitions stores (PF/16/0093), and B1/B8 use at Building 261 (PF/16/0094), but none of these have been granted planning permission because the applicant did not proceed with the Committee's requirements for receipt of further information and for completion of planning obligations. In

the intervening period the applicant considered it helpful to submit this current 'masterplan' application to replace those undetermined applications, whilst also securing permission for various buildings not originally included, Hangers 1, 2 and 3 in particular.

The application proposes new uses as below:

- All buildings within the Technical Area (Scottow Enterprise Park Zones A, B and C), to be used for B1 (light industry, offices, research), B2 (general industry) and B8 uses, with the notable exception of the four hangars which should be B1 and B2 use only because B8 is not considered suitable as the floor space available in the hangars could lead to significant traffic movements.
- All buildings within the ex-Munitions Store area (Enterprise Park Zone **D**) to be used for B8 (storage) use only.
- 5 outdoor Yards dispersed around the site.
- Use of the northern runway and 'apron' around the control tower for low-speed driver training use.

Some of the Yards, perimeter track and the southern portion of the runway / perimeter taxiway track are within the Broadland District Council Local Planning Authority boundary; officers of both LPAs have worked together to ensure proposed recommendations are consistent across both LPAs.

## **1) Principle of development**

Most of the applicant's proposed uses are considered acceptable but Officers propose to liaise with the applicant to determine a final schedule of uses appropriate to each building, and confirm those uses within conditions; for example, it may not be appropriate for such a notable building as the Air Traffic Control Tower to be used for B2 or B8 uses

### Development within the Technical Area

Notwithstanding the discrepancy between permissions and occupancy, those buildings which are in use already are consistent with the intention of either the previous Committee resolution and / or Core Strategy policy EC 4. This policy has defined the Technical Area as being a specific part of the Countryside where buildings are generally considered suitable for re-use "provided that there is no overall increase in gross floor space of the existing permanent buildings", and subject to protecting the environment and site itself.

There are no physical works proposed to the buildings in these applications, the buildings themselves are not nationally listed nor scheduled ancient monuments, and the available floorspace will not increase. Parking will be available for each building and this is within policy expectations and will generally be screened from the site perimeter.

### Development within the Countryside

The former munitions store area (Enterprise Park Zone D) is within Countryside land and subject to Core Strategy policy EC 2, which allows non-residential re-use of buildings if:

- (i) Proposals are appropriate in scale and nature to the location;
- (ii) Buildings are soundly built and suitable for the use without substantial works, and any alterations protect or enhance the character of the buildings and their setting;
- (iii) The proposals otherwise accord with policies which seek to protect biodiversity, amenity and character of the area.

The munitions store buildings are small in scale and form an 'ancillary' function to the main activities of the Enterprise Park and are relatively low-profile and discreet within the landscape. The use will not attract significant volumes of traffic nor personnel and access will be controlled by conditions and working hours.

Although current conditions vary between the buildings, none require extensive work to accommodate the use, which is suited to the fabric and characteristics of the buildings. The use will help generate revenue for wider site restoration and heritage protection, and any notable alterations to buildings would need specific planning permission so there are opportunities to control physical works if necessary.

As such, the physical appearance and character of the area will not be affected. Skylark habitat will continue to be protected through existing permissions. Local residential amenity may be affected by traffic accessing these parts of the site, but the B8 (storage) use itself does not allow for unneighbourly activities, and will be a requirement of conditions.

Use of the track as an access link to the storage buildings and use of part of the runway for driver training is considered appropriate in principle and it is considered feasible for these uses to be controlled by conditions to protect residential and commercial amenity, discussed further below.

There is some potential for traffic and Large Goods Vehicles (LGVs) and Heavy Goods Vehicles (HGVs) to affect residents of Badersfield and, to a lesser extent, Scottow as and when an additional access may be constructed at the north-east corner of the site. These impacts will need to be controlled by planning conditions, but the volume of traffic experienced to date, and the proposed 'cap' on HGV movements in the first instance, are both considered acceptable by Environmental Protection and Highways officers.

## **2) Flood risk and drainage**

The site is known to be affected by surface water flooding and the risk could be greater than predicted as the original flood risk assessment did not include climate change predictions. The surface water flood risk is exacerbated somewhat by the old drainage systems having gradually fallen into disrepair and not being able to attenuate heavy rains.

Although there is no new development area to increase surface water discharge at the site, the increased use of the site will create an increased risk to businesses and site personnel, so the proposal should ensure the new uses are protected, and improve the drainage capacity and resilience where possible. The former is made more difficult given that this is a change of use application so building alterations are not envisaged at this stage.

The application has provided a flood risk assessment which has examined the existing surface water drainage systems, overriding hydrology and records of flooding. The proposals do not include the additional and new, or enlarged, areas of buildings or hardstandings; as a result there is no increase in rainwater runoff.

The character of the local surface water catchment is one of a slow response time to significant rainfall events; this means that whilst it takes time to experience the full effects of heavy or prolonged rains, it also takes a long period of time for the waters to disperse. This is due in large part to the flat topography with very gentle slope towards the River Bure in the south-west.

Presently all surface water within the site drains into the RAF-constructed drainage network. The Technical Area around the hangers drains into the HMP Bure drain network and hence is



discharged to the west. The runway and southern areas drain directly to the River Bure to the south. Overall, as most of the site is concrete, there is a significant area of overland flow.

All drainage systems within the Scottow Enterprise Park are maintained as part of the responsibility of the site management.

The applicant has not proposed any works to improve existing drainage, but this will be included in a site management programme through conditions.

#### *Sources of flooding -*

Groundwaters are thought to be at least 4m below the surface so leading the Lead Local Flood Authority (LLFA) to consider groundwater flooding to represent only a negligible risk. Fluvial flood risk from the river is the lowest (flood zone 1), so the principle of such 'less vulnerable' development types is acceptable in flood risk terms. The FRA has considered climate change and found it unlikely to increase risk of fluvial flooding due to the character of topography and the modelled river levels. The main flooding issue is therefore the risk from surface water flooding.

Surface water flooding risk is modelled in the Environment Agency flood maps as being greatest around Hanger 4 and a complex of buildings to the south-west of the Technical Area, whilst also affecting the HMP Bure area; depths can theoretically reach 900mm in the heaviest but least frequent rainfall events, although these areas do have good coverage by existing surface water drains. In combination with the site topography and slow flood speeds, the LLFA is satisfied that risk to personnel and neighbouring land is minimal, but the proposal should nevertheless address this risk and ensure building occupants can be safe during the rainfall events, and ensure operations do not increase risk elsewhere.

The effects of climate change have also been considered within the FRA, which could see the risk increase by 40% by the 2080s. This is considered able to be addressed through maintaining drainage systems and managing risk through appropriate preparations.

#### *Flood management -*

The applicant's revised FRA has shown there are appropriate escape routes away from the higher risk locations to dry land, including from 'rear doors' in the hangers and hence to the main access drive which remains 'dry' in the heaviest rains. The designs of the buildings, and hangers in particular, means there is no threshold to protect the buildings from flood, so conditions are recommended to make sure there are measures implemented to protect occupants.

Managing the risk is dependent on appropriate drainage maintenance and monitoring by the site operations team. The applicant's Flood Risk Management Plan has identified the most 'at risk' areas and their drainage capabilities, and has detailed the necessary measures to maintain these, which shall be required by planning condition.

Using sustainable drainage systems has been resisted by the applicant. Whilst the 'change of use' proposal might make introducing new sustainable drainage systems unfeasible, and cannot be reasonably required in this application, it is not accepted that site constraints (such as heritage) preclude investigating SuDS as has been suggested. Nevertheless, the applicant has acknowledged the need for any future new developments to investigate means to include SuDS to prevent increasing the risk further, such as rainwater harvesting and new tree planting.

It is considered necessary to ensure the site management undertakes all reasonable

measures to protect occupants and businesses from flood risk, and make the site more resilient, such as with flood defences or internal safety features.

#### *Water quality -*

The area is free draining soils which makes the areas vulnerable to groundwater nitrate pollution, and is a groundwater source protection zone, but as there is no development affecting the grassed areas of the site there is no increased risk.

### **3) Highways safety**

The application has not provided an up-to-date and robust transport assessment with comprehensive contemporary traffic count data. However, the Highway Authority has accepted that there are various sources of transport data already provided in respect of these change of use proposals. Highways officers have previously accepted there to be capacity and safe limits within the existing highway network for the applications in 2016, which excluded the Hangar buildings. They also acknowledge the traffic associated with the sugar storage in the hangars was more intensive than might be likely with the proposed industrial uses in Hangars 1-3 which don't already have B1 or B2 consents.

The applicant has compiled HGV data between May 2016 and September 2017 as the Enterprise Park site reached almost 85% occupancy. The data showed there was at most 19 HGVs visiting the site on any one day, and some of those included the transport of sugar from the hangars, which is being phased out by 2019. Without sugar transport, the maximum number of HGVs used for SEP tenants was only 6, and only on two occasions.

It is therefore considered that the volume of HGV traffic of the proposal will continue to be minimal, notwithstanding the overall floorspace of the employment types proposed and the current small level of use of three of the four hangars. Whilst commuter/employee and visitor traffic to the site may be higher, and from further afield than when the RAF base was operational, this will largely be cars which can be accommodated through the pinchpoints in the B1150.

To summarise, the Highways Authority has confirmed there is capacity in the local network for the relatively modest growth predicted in these proposals. Provided the applicant diverts the HGV traffic onto the larger main road network, the Highways Authority does not consider there to be a highways safety issue, though it should be noted this does not cover the amenity issues from traffic. Conditions can be used to minimise HGV and traffic impacts, including limiting numbers visiting the site, avoiding unsuitable routes and controlling times of HGV arrival/departure as necessary.

### **4) Highways amenity and alternative access**

The proposal will bring increased use of the site and may lead to a minor increase in traffic parking temporarily in Badersfield village centre, but this would not be significant and if it became a problem the highway authority could address it.

There have been ongoing concerns about the impacts from HGV traffic (in particular) on local residents at Badersfield, as arriving through the village is the only possible access using the existing public highway network. There are significant restrictions on HGV access from the north-east or from any alternative route that avoids Badersfield, but these issues are not immediately resolvable using land within the existing public highway.

The applicant has acknowledged these concerns and provided a noise assessment and impact modelling report to understand the feasibility of continued HGV access through the village. This has suggested that general and LGV traffic does not cause an impact, but HGV impacts could become noticeable to residents in Badersfield if the intensity approached 30 HGVs per day (or 60 HGV 'movements').

Notwithstanding that predicted HGV access is likely to be lower than that historically experienced at the site both when in use as an operational airbase, and more recently associated with the sugar storage, the applicant has acknowledged the Enterprise Park growth and continued success could be compromised if it became an unneighbourly use. Hence, the applicant has proposed that no more than the 60 HGV movements should be allowed through the site entrance gates on any day before the Enterprise Park has to provide an alternative arrangement for HGV access. The applicant has proposed this as an absolute figure, which should not be exceeded at any time save for the most exceptional circumstances. This would be monitored, recorded and enforced at the site entrance gate, with regular correspondence maintained with local planning and highway authorities.

Investigating this, the application has worked with adjoining landowner(s) to secure necessary land for constructing an alternative entrance. This 'second entrance' is indicative only, and is proposed in the north-east corner, making use of the existing former RAF emergency exit "crash gates" which are currently closed off but link onto The Fairstead to the west of Scottow Village, and from there turns north up to Scottow Road. Within the SEP site, the future route would pass around the northern perimeter track and connect to the emergency exit. Outside the site, some minor road widening would likely involve the removal of a stand of trees and would require widening the west side of The Fairstead to provide two-way working and connect up to Scottow Road.

If the second entrance is required to be brought into use it has a 15m-wide corridor for construction in this application which Highway Officers are satisfied is sufficient to accommodate appropriate roads and junctions. The historic settings of the chapel and cemetery and conservation area would be affected to a minor degree, but the harm would likely be less than substantial and would likely be outweighed by the public benefits of removing HGV traffic from Badersfield village. Whilst bringing HGVs closer to homes in Scottow, the applicant would have to consider whether any traffic restrictions or road designs are needed to prevent HGVs using the shortcut through the village onto the B1150 North Walsham Road and promote a traffic regulation order to provide those if necessary (which can be secured by condition).

Should it become necessary to provide an alternative access, the access is proposed to be used for HGVs only in the first instance, but there would be no reason to prevent the applicant using this route for more vehicles. It is considered necessary, reasonable and practicable to limit the numbers of HGVs movements into the Enterprise Park until such time as any possible alternative is able to be provided. As such it is recommended that no more than 60 HGV movements take place through the existing access at Lamas Road, on any day, until such time as the alternative entrance is provided and the improved road built in the location shown in the submission. In practice, this would be monitored by traffic data collected at the entrance gate to be available for inspection at any time and to also be submitted to the LPA and Highways Authority on a quarterly basis. Further, all LGV and HGV traffic shall be provided with a Routing Plan to the site, and a Traffic Management Plan for within the site, detailing necessary restrictions.

It is recognised that non-car access to the site is deficient. The applicant has provided details for constructing a footpath in the highway verge between the Enterprise Park and Badersfield village centre, which will be required by conditions, and has proposed to provide facilities for a bus stop outside the site entrance, also to be required by conditions. Both will be

complemented by a Travel Plan which will include working with bus providers to ensure the local services call at the site and possibly diverting into the site itself). These measures will ensure employees and visitors have improved access to facilities.

The applicant did not initially provide any form of Travel Plan but has subsequently provided an Interim Version. Subject to confirmation from the Highway Authority, it is considered appropriate for the Interim Travel Plan to inform the content of a Full Travel Plan, to be introduced as a requirement of conditions. This will encourage more sustainable travel.

The National Planning Policy Framework (NPPF) advises that applications should only be refused on highways safety grounds if the impacts are severe; taking the historic traffic data, proposed restrictions and mitigation proposals into account, the proposal with HGV traffic limited to 60 movements per day is not considered likely to cause significant highways safety concerns which cannot be mitigated by conditions. Beyond this, the second entrance will need to be considered, including a full transport assessment. The applicant has accepted that planning conditions will require no more than 60 HGV movements per day (Mon-Fri) and no more than 30 movements on Saturdays consistent with opening hours. The site will need to apply for planning permission and then provide the second access before more than 60 movements can occur.

## **5) Heritage assets**

The whole of the Enterprise Park application site is within the RAF Coltishall Conservation Area, which includes 7 buildings of locally-listed interest and two Scheduled Ancient Monuments (the northern group of Cold War blast walls and the north-eastern WW2 spitfire pen), all within North Norfolk LPA area. Historic England and the Historic Environment Service have also recognised two sites within the Broadland District Council LPA area which have a heritage value of equivalent or similar status to the Scheduled Ancient Monuments, despite not being designated in themselves.

When considering development proposals located within a Conservation Area, Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 states:

'In the exercise, with respect to any buildings or other land in a conservation area,...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

The RAF Coltishall Conservation Area Appraisal (adopted 2010) identifies the following key issues relevant to this application for change of use of buildings and track:

- *Need for the siting and design of new or replacement development to reflect the historic context and prevailing character of the site and for careful consideration to be given to the demolition of any buildings.*
- *Condition of vacant buildings and related risks of vandalism and theft.*
- *Subdivision of site ownership and need to ensure cohesive site management.*
- *Inappropriate alterations to existing buildings and structures.*
- *Alterations to hard and soft landscaping.*
- *Need to carefully consider the role of woodland and trees in the landscape and the setting of the site.*
- *Need to protect the setting of the key features such as the water tower and the control tower.*

Since then, most of the heritage assets and their settings have generally been preserved and

enhanced since the Enterprise Park increased occupancy levels and its buildings needed restoration; indeed, the Conservation Area was removed from the Conservation Areas 'At Risk' Register in 2016. The potential investment in heritage deriving from the positive use of buildings is an important material consideration in assessing levels of harm caused to heritage assets.

Whilst reuse of a number of key buildings has been secured, there are still a number of under-utilised buildings and yards on the site, the condition of which is likely to deteriorate further if they are not converted / brought into use. The sympathetic re-use of the buildings therefore offers an opportunity for enhancement and, if properly managed, will help to secure the long term conservation of the site.

There are a few areas within the application supporting statements that the Historic Environment Service (HES) consider need further updates and clarification. HES continues to work with the applicant to bring heritage values to the fore as the site evolves. These updates and a programme of building and site recording will be required by conditions.

Officers have concerns over the proposed storage use within the yards which tend to be adjacent to valued heritage assets, whether formally designated or undesignated, and whether or not they are in Broadland or North Norfolk. It is considered necessary for all yards to be subject to criteria which establish appropriate storage arrangements and mitigation (e.g. screening) where necessary. These will be confirmed by conditions; for example Yard 94 next to the northern spitfire pen needs landscaping screening and tree planting to minimise the sense of visual connection with the much older and unrelated spitfire pen. It is considered appropriate for the yards to be used only for contained material (although not necessarily with containers), only for inert materials, and to be no more than 3m tall. The applicant's revised supporting statement of 10.12.17 confirms this would be acceptable. A stand-off distance of 2m will also be required from the blast walls in Yard 11 and from the cold war IT building at Yard 220. The use of carefully worded conditions will be necessary to ensure any adverse impacts on the heritage assets are managed appropriately.

As Historic England have identified, the undesignated southern spitfire pen next to Yard 220 has significant heritage interest and is different to that of the scheduled ancient monument spitfire pen to the north of the site. Its current condition is very poor, being overgrown with vegetation and inaccessible. It is considered extremely desirable to see this brought up to an improved standard and given greater public awareness / accessibility. However, it has been agreed with the Historic Environment Service that such ambition would be a longer-term aim, as protection should be prioritised to the deteriorating northern spitfire pen, and actually some degree of protection is provided by the vegetation. The overarching Conservation Area Management Plan, to be required by condition, would address the issues at this site and provide improved public access and visibility / awareness. As such, it is not considered necessary to impose specific additional protection from the use of the adjoining yard above those measures already described.

Given the character of the uses and their associated activities, it is considered that there will be a degree of harm caused to heritage assets by virtue of increased activity and operations within the conservation area and within the immediate setting of both designated and undesignated structures / buildings. However, this level of harm is considered less than substantial, and as such the harm would need to be outweighed by a proportionate level of public benefits associated with the development.

As the site is so extensive with a range of heritage assets and significant recent local and cultural interest, it is considered necessary for it to be managed very carefully as the site evolves. To this end the two LPAs, the Historic Environment Service and the applicant have agreed the principle that a Conservation Area Management Plan (CAMP) should be produced

and implemented for the foreseeable future as a key element in the site's development. A CAMP will help to control impacts of site growth and keep heritage value uppermost in site operations, whilst ensuring there is appropriate access and connection with local heritage groups. It is recommended that a CAMP be proposed within 12 months and implemented within 18. It should achieve the following:

- Present a clear site-wide strategy for conservation area and heritage management,
- Propose a range of options for on-site heritage investment projects,
- Ensure buildings and operations remain in the economic growth interests of tenants,
- Include cultural heritage appraisal, asset protection and management,
- Include ecology / biodiversity appraisal and continued protection and enhancement,
- Include landscaping and tree appraisal, management and protection (& community wood),
- Propose a public engagement plan for awareness of heritage assets and cultural value, both improving public access within/around the site, and through virtual resources,
- Ensure public and stakeholder consultation as part of CAMP production and review.

It is intended that the CAMP should apply to all operations and development within the site, whether change of use, demolition or new build activity, and can be implemented and monitored by virtue of the Enterprise Park being operated and owned by a single body. Any variations to the proposals within it would need to be agreed between planning authorities and Historic Environment Service, with Historic England an important consultee.

In the interim, the site will be bound by the measures proposed in the submitted documents, including mitigation proposed in the application's Cultural Heritage Assessment. The Historic Environment Service has identified that a number of these need amending, which can be addressed by conditions.

Some broad principles of heritage enhancement and public benefit have been proposed recently, which shows the applicant's commitment to securing investment and improve public access and interaction with the site's heritage. The measures proposed in the Heritage Investment Plan and Air Traffic Control Tower Project Plan (both received 12.01.18) are considered broadly appropriate, reasonable and above all necessary as a short-term measure to ensure heritage appreciation is accessible by various means and at various times to the public, whilst securing the future of heritage assets. These proposals will be amended slightly where necessary and their measures required by conditions. In particular, it is considered necessary to ensure the Air Traffic Control Tower be renovated and brought into use as a matter of priority for both business and public use, with appropriate heritage interpretation and investment to provide public education/awareness. As a broad plan has been proposed at the request of officers, it is considered necessary and reasonable for the works to have been completed and the facility made available within 18 months, which would correspond to the implementation of the Conservation Area Management Plan.

It is also worth noting that the solar farm development has provided financial contributions to enable certain such works, so it is reasonable to expect key restoration projects, such as bringing the control tower into use, to be undertaken in a particularly timely manner. Carefully worded conditions and requirements of the proposed Conservation Area Management Plan will further confirm the actions required and timescales expected.

In providing these improvements, alongside the heritage recording and careful site management, it is considered the application offers sufficient public benefit to outweigh its harm caused to heritage assets, and therefore comply with the expectations of paragraphs 132 and 134 of the NPPF. Using conditions as proposed will ensure the proposals preserve

and enhance the character and appearance of both the conservation area and the features and special characteristics of the scheduled ancient monuments, so fulfilling the requirements of Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

Notwithstanding these enhancements, a permission to bring new uses to most of these buildings would ordinarily introduce permitted development rights to alter and extend commercial buildings. It is proposed that these be removed, in the interests of protecting heritage to ensure that alterations are carefully considered and the impact investigated. Additionally, any proposed external painting should be in appropriate colours, which respect the heritage value of the site.

## **6) Noise (Residential and commercial amenity)**

The closest residential neighbours are adjacent to the site at the end of Frogge Lane and Herne's Farm (both in Broadland District) (which is 30m from the eastern taxiway and 147m from the southern runway respectively). The closest neighbours in Scottow (to the east) are 500m away from the proposed northern runway driver training area. Residents within the HMP Bure are within 315m of the Technical Area's runway apron, and residents of Badersfield are 480m away to the west. Residents of Manor Farm and Scottow Hall to the north are 180m and 370m from the taxiway and 520m from the proposed northern driver training area.

National Planning Policy Guidance on noise impacts requires LPAs to consider:

- whether or not a significant adverse effect is likely to occur;
- whether or not an adverse effect is likely to occur; and
- whether or not a good standard of amenity can be achieved.

In line with Noise Policy Statement for England (NPSE), this would include identifying whether the overall effect of the noise exposure would be above or below the Significant Observed Adverse Effect Level (SOAEL) and the Lowest Observed Adverse Effect Level (LOAEL) for the site and the proposed use. The LOAEL is the level above which adverse effects on health and quality of life can be detected (as opposed to the SOAEL, which reflects significant adverse effects). These values change according to the appropriate assessment methodology determined by the noise environment characteristics.

The NPSE requires significant effects to be avoided, and to mitigate adverse impacts wherever possible in order to minimise exposure to the lowest observable effect level. This does not preclude a degree of adverse effects being permitted, as long as all reasonable measures have been taken in mitigation.

### Vehicles accessing the site

Existing noise levels and traffic levels were assessed at the junction of Lamas Road and Hautbois Road in January 2017. This location was selected because it is a 90-degree bend in the access route to the site where residents are at the closest proximity to traffic and where vehicles are slowing, idling and turning, so are at their noisiest for longest. By measuring the existing impact, the assessment could predict the impact from larger, noisier vehicles linked to the Enterprise Park.

The noise assessment has extrapolated data from the heaviest and noisiest forms of transport, being those over 7.5 tonnes and buses with capacity for 30 passengers, and following that has predicted the impacts from growth of those vehicles. The report has,

unfortunately, only described these as Large Goods Vehicles (LGVs) (e.g. large vans), but this is an error and it is accepted by Environmental Health and Highway Officers that in fact the assessment has looked at Heavy Goods Vehicles (HGVs).

Road traffic noise has been assessed against Highways Agency's advice on noise level changes, which considers a 3-5dB increase to create minor long term impacts.

Existing HGV traffic passing the assessment point was generally few in number (13 over the busiest hour) and even fewer vehicles were associated with the Enterprise Park (4 per hour on average). These contributed to an existing 57dB hourly-average ambient noise level at this assessment point. If this continued through the night this would be above the World Health Organisation criteria of 55dB for Significant Observed Adverse Effect Level (SOAEL) for noise exposure, but the HGV levels reduce dramatically to only 3 per night. Although not a direct comparison, it is already above the WHO guideline for steady industrial noise effects in external daytime areas (50dB).

Using the average and maximum noise levels of those assessed HGV vehicles, the applicant has modelled the impacts from up to 10 additional HGV movements per hour. At maximum, 10 HGVs would create a 3.5dB increase, leading to a 60.4dB background noise level. Against the Highway Agency advice this is a minor adverse impact, and noticeably above the WHO guidance.

The applicant has therefore suggested that noise should be limited to a predicted increase of only 7 HGV movements per daytime hour, which would theoretically lead to a 2.7dB increase which is equivalent to a 'negligible' effect over the long term (as described by the Highway Agency).

Limiting the Enterprise Park to an additional 7 HGV movements per hour over the 10-hour working day (0800 – 1800) would be 70 movements in the day before an effect is considered more than 'negligible', based on the measured background data. The applicant has proposed to limit HGV traffic to 60 movements per day, which would be within the aforementioned theoretical noise 'limit'.

Certain caution should be applied to the submitted assessment:

- The assessment relies on background data from January 2017; as the site has grown in occupancy the traffic levels will have increased and the background levels also increased, meaning that further increases above that 'historic' transport data would be even noisier and likely to be higher than 'negligible' levels.
- Certain periods may be more intensive than others, e.g. harvest.
- Limiting growth in noisier SEP traffic will not be able to limit noisy non-SEP traffic.

The assessment found 'capacity' in the January 2017 noise environment for an additional 70 movements per day before an adverse effect is experienced (in this case the Lowest Observed Adverse Effect Level (LOAEL) for long term impacts would be the Highway Agency's 3.0dB increase).

However, the 60 HGV movements per day as proposed will be within this tolerance and still allow 'headroom' for other noise, such as agriculture or other businesses driving through Badersfield. By comparison, the limited transport data provided within the application shows that HGV traffic was last found to be up to 6 HGVs per day (12 movements) when SEP occupancy was c. 85%. Environmental Health Officers consider the proposed limits to be acceptable and this will be required by conditions. If 60 movements / day occur, a new alternative access will be needed.



## Industrial noise

Industrial noise forecasts are usually assessed against British Standards, which suggests that 5dB and 10dB above background noise levels are considered “adverse” and “significantly adverse” respectively, albeit with some modification applied for very low background noise environments. Without knowing the prospective tenant activity, it is not possible to predict industrial noise levels, but the assessment has been able to propose suitable noise limits which tenants should not exceed, taking into account the margins above background noise levels.

Background daytime noise levels at the closest neighbours were found to be 28-30dB. When noisy events are factored in, this rises to 36-39dB as a representative ambient noise level. Due to existing noise levels being low, the report argues that whilst an increase of 5dB or even 10dB would be “significantly adverse” as per the British Standard guidance, this would nevertheless be inappropriate as a limiting criteria because the absolute levels would still not exceed the WHO guideline limits.

As a result, the application proposes that new industrial noise should be considered against the World Health Organisation (WHO) guidelines. For daytime noise level limits this a 16-hr average of 35dB for internal noise and 50dB for external areas, when receiving steady, continuous noise.

The applicant has therefore proposed that new development industrial noise should be allowed up to 50dB as a daytime average in external areas of the closest dwellings, and up to 40dB as a night time average for external areas (which is lower than the WHO 45dB guideline). They have not proposed a value for internal residential spaces.

Having considered the advice of the Environmental Health Officer, it is considered appropriate for the development site to be restricted in the level of noise that can be emitted; it is proposed that planning conditions be used to ensure that cumulative noise emissions at the site boundary do not exceed 50dB over the daily average, nor 40dB at night time; these would be considered the Lowest Observable Adverse Effect Levels (LOAEL) for this type of continuous steady industrial noise. Given the close proximity of residential gardens/external spaces to the industrial area (190m) it is possible ensure these conditions are enforceable and become a site-wide management requirement. Further, conditions will restrict Enterprise Park opening & operating hours to 0800 – 1800 Monday – Friday and 0800 – 1300 Saturdays, and at no time on Sundays or public holidays.

The Environmental Health Officer’s concerns are noted in respect of the activities of some businesses of track uses affecting other businesses, but it is considered more appropriate and in the applicant’s own interests for these to be monitored and managed by internal site management.

## Driver training area

This application has also assessed background noise in the vicinity of the areas proposed for driver training, and also undertook experimental driver training tests. This part of the site has extremely low existing noise levels, so the impact of any vehicle activity would be noticeable. Local residents have expressed concerns in respect of the driver training part of the scheme, and note this occasionally takes place already under permitted development rights; it is understood the applicant is seeking to expand and formalise the arrangement to enable more frequent use.

Only very recently (12.01.18) has the applicant been able to clarify the existing and proposed

nature of driver training activities (this has been issued to neighbours for public consideration as well as Environmental Health Officers). The applicant seeks to formalise and expand the current training that takes place, which is low level at present.

*Proposal –*

The existing arrangements see attendees arrive at site by private car (6-10 people [and cars] per course) and park in the main Enterprise Park carpark; a dedicated minibus is then used to take attendees to the training area. A single training car is used, with attendees taking it in turns to complete each manoeuvre (i.e. parallel parking) with the instructor. Areas for manoeuvring are set out with cones and the minibus remains at the training area throughout the course so that those not taking part in training can use it to avoid adverse weather, eat their lunch and otherwise sit down. At the end of the course, attendees are taken by minibus back to the main carpark to collect their cars and leave site.

Each course uses 1 minibus (to and from main carpark) and a single training car, and each course lasts a single working day. Presently, only one training area and one event takes place at any time. The applicant requests this be extended to up to 3 courses run on any given day (Monday to Friday only) with each using one of the 3 identified training areas. Despite being low intensity the applicant proposes to restrict the driver training to be held on no more than 10 days per month, and be given CCTV coverage of driver training areas.

*Impact –*

The World Health Organisation (WHO) guidance for daytime noise level limits is a 16-hr average of 35dB for internal noise and 50dB for external areas from steady, continuous noise; in this instance the WHO 50dB rating is not considered appropriate given the driver training is not 'continuous' background noise and its intermittent character could cause annoyance at lower levels. As such, the assessment has made predictions based on British Standard methods, whereby a background noise level increase of 5dB would create an "adverse" impact and 10dB would be "significantly adverse"; the Environmental Health Officer has agreed this to be an appropriate assessment method.

Background daytime noise levels at the closest neighbours were found to be 28-30dB. When noisy events are factored in, this rises to 36-39dB as a representative ambient noise level. The assessment tested vehicle noise in the driver training area and modelled the impact. The predictions indicate driving at 30mph could create 36dB noise; this would be an adverse impact of 6-8dB, which would be 'adverse' but not 'significantly adverse'.

The Lowest Observed Adverse Effect Level is considered to be the WHO guideline of 40dB in external environments at night time, so would therefore be higher for daytime when background levels are higher, being closer to the WHO guide of 50dB for daytime external spaces.

Although the training activity could create 36dB and be noticeable in itself, the predicted likely noise is expected to be significantly below the LOAEL. The distances involved and the intervening solar farm panels will also serve to provide something of a barrier effect which further helps minimise the noise impact, even when accounting for the potential for noise to be carried further by prevailing winds. As a result, the predicted impact is considered to remain within acceptable limits.

It is also important to consider whether all reasonable mitigation measures have been taken, and officers consider this to be the case, as the following measures are proposed:

- the Enterprise Park is a secure site and management will not allow 'ad hoc' use e.g. learner drivers, and will only allow 'managed' operations to ensure the effects are contained - to be operated by professional bodies under site supervision;
- only certain restricted areas of the runway will be allowed to be used for driver training purposes;
- the applicant has reduced the area for driver training; this is now only proposed in two areas adjoining the Technical Area and within the northernmost end of the runway, which is 500m from the closest residents of Scottow to the north-east and Manor Farm and Scottow Hall to the north-west;
- the driver training area will only have one access route;
- the area would be overseen by CCTV;
- the use would only be for speeds up to 30mph;
- driver training events would be limited to only 10 days in a month; and,
- driver training would not take place on Saturdays;
- driver training will be limited to one training vehicle in each / any area;
- driver training shall take place in accordance with the driver training proposal statement;
- driver training access shall only be in accordance with the Site Traffic Management Plan.

The above requirements are proposed to be set by planning conditions. Whilst some elements may be difficult to enforce, it is still feasible to do so; the applicant shall be required to keep a log of all driver training events and submit those quarterly (alongside HGV data), as well as having site-wide CCTV capacity. Whilst the 30mph speed for driver training is not proposed to be monitored, the other restrictions limit the impact to such a minimal level that it is considered acceptable, and any complaints could be monitored if complaints are received.

Given the above proposed conditions, it is not considered necessary to restrict the types of vehicles proposed to be used for driver training. Members may recall previous application PF/16/0094 was considered acceptable in principle only if the activity was restricted to engines of 1600cc or less, and only for speeds of up to 10mph, and only for cars and not motorbikes. However, these controls were precautionary because the application had not been supported by a noise assessment or driver training proposals at that time; with the information provided now, the activity can be viewed more flexibly and favourably.

Members might also recall that previous proposals included 'vehicle testing' (the characteristics of which could involve significant noise if not severely controlled), and there have also been some historic problems from 'vehicle testing' uses, but they were undertaken through permitted development which is ordinarily possible for up to 14 days per year. Vehicle testing is not a feature of this proposal and it is recommended that planning conditions will also remove the permitted development opportunities for vehicle testing.

#### Use of the perimeter track

Use of the perimeter track shall only be permitted for access to the storage facilities in the north-east and east of the site and to the driver training area. The site management will enforce speed controls of no more than 20mph on this perimeter track, and use barriers to block access to certain areas closest to residents in the south-east corner. Signage, speed humps and barriers will reduce speeds and direct vehicles in an appropriate manner that avoids impact on the heritage value of the site. The site's Traffic Management Plan shall be required by condition.

Members might recall that previous application PF/16/0094 included proposals for cycling and running uses around the perimeter track. These have not been proposed in this application but the applicant retains an interest in trying to accommodate these activities if necessary and appropriate, and would be able to do so under permitted development for up to 28 days per

year. Given the low-level impact from these uses, it is not considered necessary or reasonable to remove such permitted development opportunities.

## **7) Ecology**

In this application the risk to protected species is a concern as some of the buildings have been unused for a while, and are sited in quiet parts of the site and it is possible there could be bat or bird nesting, and the topographic character and setting of the munitions stores in particular could be favourable habitats.

Ordinarily such an application would be accompanied by a full investigative ecological survey. It is regrettable that the application has not looked at specific species presence, and instead relied only on past survey data available in respect of only some parts of the site; for example, the previous applications for Hangar 4 and the solar farm had found roosting bats and newts.

However, the British Standard for the Code of Planning for biodiversity (BS42020:2013) states that it is acceptable to secure ecological surveys by condition if the information is to be used to inform the detailed ecological requirements for later phases of developments that might occur over a long period and/or multiple phases (section 9.2.4). The landscape officer suggests this would apply to this application and would justify requiring further surveys by condition which would otherwise be contrary to government advice (Circular 06/2005) and should only be applied in exceptional circumstances.

The noise limits and driver training restriction proposed within the application will avoid any more than a negligible adverse effects on nesting birds and skylark population. Notwithstanding that the fabric of the munitions stores appears fairly sound and the proposed new uses are low intensity and not especially intrusive, it is recommended that a bat presence survey be undertaken prior to occupation of the buildings, either on a per-building basis or an annual / phased approach, whichever is the earlier.

If permitted, this application would establish a planning use for the buildings, rather than a 'nil' use from discontinued military activity and ordinarily some restricted permitted development rights would apply and certain works could be undertaken without needing permission. This is not considered appropriate given both the heritage value of the site and the absence of ecological survey data to confirm there would not be an impact on protected species. As such it is proposed that conditions require ecological presence/absence survey and impact assessments prior to any works of alterations, whether permitted development or not, and these would need to propose a mitigation plan for implementation in the event of protected species being present. In the event protected species are found, it is however considered feasible and likely that the site would be able to accommodate mitigation, and therefore the development would be considered acceptable in principle.

Notwithstanding precautionary or compensatory mitigation measures, the application acknowledges the requirement to enhance biodiversity and proposes bird and bat box installations, including barn owl and kestrel boxes. These can be required by conditions.

## **8) Landscape**

The applicant has noted Officers' concerns that the solar farm remains visible and detrimental to the wider landscape. When the solar farm was approved there was an expectation for a hedge to screen the arrays from the north and east. This requirement was removed when the solar farm planning permission was varied to try and accommodate the potential route of a new road; at one stage this was to connect through the northern end of the runway, and there

was concern that any hedges planted for screening would be abortive if the road were built. As the details of the alternative road location show this to now come through the existing crash gates to the east, it is considered appropriate and reasonable to ensure the screening to the north is re-provided. Currently the solar farm perimeter is surrounded only by scrubby bramble growth on a herring fence; providing a more permanent and purposeful hedge will also improve security.

The proposals offer a hedge around the north east boundary with a native hedgerow mix. The slight amendments requested are to include some field maple in the species mix and confirm the exact percentages of each species (to avoid a mono culture of hawthorn). These would be agreed by conditions, as would the requirement to ensure that the hedge is maintained at a height of no less than 3m once established.

Conditions will also need to ensure that building the new road connections includes surveying, replacing and replanting trees and hedges lost to the road widening requirements.

The site of the Community Woodland approved in application PF/11/0495 has been included within the application site. It is not clear in who's ownership this lies (the scheme was originally approved when the site was owned by the Ministry of Justice). This project should be brought into any 'masterplan' permission in some form, as well as featuring within the proposed Conservation Area Management Plan, so shall be investigated and reported verbally to the Committee.

## **9) Other issues**

- Contamination - It is considered prudent to require an assessment of the former bomb/munitions stores prior to any new use, to determine whether there is a risk to human health from the past use and materials that may have been stored there. This is proposed by condition.
- Air Quality – the low level of HGV movements associated with the site, and the limited nature of further HGV traffic provides confidence that future impacts would be an acceptable minimal level.
- Swift Air – It is public knowledge that the Enterprise Park is considering use of the central and southern parts of the runway for aircraft test flights, initially by a company known as Swift Air. This is not a part of this planning application and the central runway is excluded from uses at this stage, whilst the southern part is within Broadland District Council LPA area. If this is developed into a formal planning application it would have specific public consultation.
- There would be some economic benefit to both the wider District, and County, and locally to the village shop.
- Concerns for health and safety linked to the site operations and storage uses are a matter for the site management, health and safety executive, and relevant environmental health officers. The site traffic management plan shows various measures to improve on-site manoeuvrability to improve site safety and vehicle flows, and will be required by conditions.

## RECOMMENDATION:

### 1) To APPROVE application PF/17/1057 insofar as it concerns land within North Norfolk District, subject to the following summarised conditions, and any other conditions considered appropriate by the Head of Planning:

- Buildings not in use to be brought into use within 3 years.
- Amendments to specific heritage documents and implementation thereof.
- In accordance with approved plans.

#### Operations / principle

- SEP site opening hours to be restricted to 0800 – 1800 Monday – Friday, 0800 – 1300 Saturdays, and no use on Sundays or Public Holidays.
- No more than 60 HGV movements through the entrance gate at Lamas Road in any day (Mon-Fri) and no more than 30 on Saturdays, unless a secondary and alternative HGV access route has been proposed, approved, constructed, managed and brought into use from The Fairstead as per the route outlined in the new access route plan.
- HGV monitoring at the front gate; HGV and driver training event records to be sent to LPA and HA on quarterly basis, and retained as an available record for at least 36 months. Records to include number plates, times of arrival/departure, tenant, purpose.
- Specific buildings to be used only as per a Schedule of Uses to be agreed.
- Restriction of uses of yards – heights, materials, appearance, stand-off distance.
- Removal of permitted development rights – no external alterations / extensions.

#### Ecology and landscape

- Bat and bird presence investigations, impact assessment and mitigation as necessary.
- Provide north-eastern boundary screening hedge within first planting season, with details to be agreed re species mix, density
- Manage the new hedge at no less than 3m.
- Provide biodiversity enhancement measures as proposed in the ecology report.

#### Heritage:

- Short-term heritage protection through mitigation in Cultural Heritage Statement.
- Before any building is brought into use provide a record of each building's heritage based on its entry in the building schedule / within 2 months of permission for existing buildings.
- No internal alterations without reference to historic building record preservation aims.
- Produce Conservation Area Management Plan within 12 months and implement in 18.
- Restoration of the Air Traffic Control Tower into use with public access within 18 months.
- Landscape screening around Yard 94 to be agreed.

#### Flooding:

- Provide a flood risk evacuation and management plan for each building.
- Maintain drainage system as per documents provided, particularly high risk areas.
- Provide flood risk and resilience measures prior to first use/implementation.
- New road route to include drainage measures.

Track uses:

- Driver Training Area restrictions – speed, use, management as per description above.
- CCTV systems to be used and maintained, and activities monitored.
- Limit of 20mph around perimeter track.
- Removal of permitted development rights – no use for vehicle testing activities or for any purpose (e.g. car boot sales) other than low-speed driver training as proposed.

Amenity, noise and machinery

- No more than 50dB noise limit at boundary of site from commercial / industrial noise.
- No plant, machinery, extract ventilation to be installed without prior consent.
- All external doors to be shut during operations.
- No external lighting without prior approval.
- Assess bomb store areas for potential historic risks prior to first use.

Highways and new access road:

- Manage the site traffic as per the Site Traffic Management Plan.
- Implement the Interim Travel Plan and provide & use a Full Travel Plan in 3 months.
- Provide new footpath link to village in 3 months.
- Provide new bus stop areas (hardstanding, access, pole) in 3 months.
- Investigate need for TROs / other measures on The Fairstead.
- Surveys for trees, hedging and replanting scheme where they are lost.

Advisory notes:

- No replacement of windows without prior planning permission.

2) **To write to Broadland District Council LPA and recommend that parts of their application ref. 20171511 be approved in similar fashion as described in the report above and subject to the imposition of similar relevant planning conditions.**

(4) **SHERINGHAM - PF/17/0468 - Demolition of existing hotel and erection of mixed use building comprising 10 dwellings (Use Class C3) and 4 commercial units (Use Class A1/A2/A3/ A4/A5) with associated parking and highways works; Formerly The Shannocks, 1 High Street for North Norfolk District Council**

**Major Development**

**- Target Date: 19 July 2017**

Case Officer: Mr G Linder

Full Planning Permission

**CONSTRAINTS**

Town Centre

Conservation Area

**RELEVANT PLANNING HISTORY**

03/0981 PF

1 High Street, Sheringham

Continued use of former second floor hotel bedrooms as residential flat approved 18/08/2003

03/1897 PF  
1 High Street, Sheringham  
Continued use of former first floor hotel bedrooms as residential flat  
Approved 12/01/2004

05/1580 PF  
1 High Street, Sheringham  
Change of use from restaurant and two flats to hotel/restaurant  
Approved 15/12/2005

16/0596 PF  
1 High Street, Sheringham  
Demolition of building  
Refused 26/08/2016

17/0192 PF  
1 High Street, Sheringham  
Demolition of existing building and erection of four a storey mixed use building. Unit 0.1 : A3/A1 (Restaurant/Shop). Unit 0.2 : A3/A1 (Restaurant/Shop). Unit 0.3 : A3 (Restaurant). Unit 1.1 : C3 (Residential). Unit 1.2 : A3 (Restaurant). Unit 2.1/Unit 2.2/Unit 2.3/Unit 3.1/Unit 3.2 : C3 (Residential)

### **THE APPLICATION**

Seeks permission for the demolition and redevelopment of the former Shannoeks Hotel and adjacent Chequers public car park as a mixed use development comprising 4 commercial units and 10 apartments. The two sites combined have a total ground area of approximately 962 sq. metres.

The four commercial units on the ground floor will each have a floor area in the region of 80 sq. metres, and will be within Use Class A1/A2/A3/A4/A5. The 10 apartments would be located over three floors above the commercial units, four each on the first and second floors and two on the third floor. Apartments will consist of a mix of five 2 bedroom 3 person units and five 2 bedroom 4 person units the majority of which range in floor area from 63 to 86 sq. metres. The exception being Unit 10 on the third floor which will have a floor area of 115 sq. metres.

Due to level changes across the site, the proposed building would be stepped in height with the residential apartments on the eastern side of the site set approximately 1.5m lower than apartments on the western side of the site.

Vehicular access to the residents parking area will be from the east opposite The Crown Hotel and immediately north of No.1 Lifeboat Plain.

It is proposed that the development would employ a palette of vernacular materials including red brick, flint and render to the walls under a roof of red plain tiles, with white joinery and a colour finish to the shop fronts.

Amended plans have been received showing additional bin storage provision, an additional car parking space and alterations to the cycle storage arrangements.

### **REASONS FOR REFERRAL TO COMMITTEE**

The applicant is North Norfolk District Council and referral to Committee is a requirement under the Council's scheme of delegation.

### **PARISH/TOWN COUNCIL**

**Sheringham Town Council** – Supports the principle of improvement/development of the site



however objects on the following grounds:-

- NNDC proposed development has gone beyond the boundaries of the building that they are intending to compulsory purchase.
- It is essential to retain the Chequers car park as it is extremely well used for the town, Museum and Oddfellows Hall, as it is the only car parking facility in that area. In addition the car park is essential for disabled visitors.

## **REPRESENTATIONS**

Nine letters of objection have been received which raise the following concerns

### Summary of objections:-

1. Loss of sea view as a consequence of any building development on the car park.
2. Loss of car park will have a detrimental impact both on commerce and residents.
3. The applicant has made no attempt to provide a suitable alternative to the Chequers car park.
4. Older and less mobile residents will be disadvantaged in accesses the sea front from car parks elsewhere in the town.
5. The car park has always been an open space.
6. The proposed development will block/brick up one of my north facing windows and restrict light to the property.
7. During the construction phase of the development our holiday cottage will become un-rentable, due to construction traffic and noise.
8. The proposed pedestrian access to the residents car park is off the alleyway to the south immediately opposite our back door.
9. There is a lack of parking for delivery vehicles servicing the four commercial units.
10. The apartments do not appear to be affordable.
11. This is a missed opportunity as there is a need for a quality hotel in line with modern standards. This would assist tourism and create local jobs.
12. The existing period property should be retained and returned to a hotel rather than building another carbuncle.
13. The character of Sheringham is gradually being eroded through poor and backward looking planning approvals.
14. The site does not have excellent public transport links as suggested in the submitted Design and Access Statement.
15. There is a deficiency of cycle parking in the town.

One letter of support has been received which suggests the proposal is well designed and will significantly enhance and positively contribute to the area.

## **CONSULTATIONS**

### **County Council (Highway) - Cromer – No objection.**

It is the view of the Highway Authority that the removal of the public car park with adequate signage, will improve traffic flows and pedestrian safety, through the reduction in drivers seeking parking in this busy area. However has requested a plan showing the footprint of proposed building in order to fully assess net changes to the highway boundary.

### **Historic England – Objects.**

Considers that the existing building makes a positive contribution to the historic significance of the Sheringham Conservation Area and that its demolition could result in harm to that significance in terms of the National Planning Policy Framework paragraphs 132 and 134. The Council should seek the justification required for the harm by the NPPF and weigh this harm against any public benefit delivered by the new building.

As far as the design of the replacement building is concerned this responds well to its context and would not cause additional harm if a high quality of detailing and materials were achieved should it be granted permission.

**Conservation and Design Officer – No Objection.**

No sustainable objections to the demolition and replacement of the existing building. Nor are there any heritage concerns raised extending its footprint to include the adjacent car park.

The existing building does not in its current condition enhance the appearance and character of this prominent and important part of the Sheringham Conservation Area. At the same time it does offer approximately 100 years of history and a three-dimensional presence at the end of the High Street and is one of last remaining late 19<sup>th</sup> century hotels left in the town, it is certainly not without local interest and townscape value. However, by virtue of its longstanding shabby appearance, and the number of alterations it has sustained over time, its contribution is now essentially a neutral one to the overall significance of the heritage asset. As such, it cannot be considered critical capital which must be retained at all costs. Instead, because the property is not a listed building, its demolition can in theory be sanctioned subject to the submission of an appropriate parallel scheme of redevelopment.

In terms of the car park at the present time this provides a hard-surfaced area which is entirely open across its frontage. The net result is a rather soulless space which provides vehicular clutter when occupied and a visual scar when not in use. Either way, it cannot be said to make a positive contribution to the character and appearance of the surrounding area.

Against this context, there has to be broad C&D support for any proposals which bring forward the sensitive redevelopment of the site, not least because of its key position directly above the promenade.

Scale and massing

The building proposed would have a maximum height of around 13.5 metres (allowing for the sloping ground level) which is some 2.5 metres higher than the existing building. It would thus produce a more pronounced scale differential to its near neighbours. However, because the elevations feature a stepped ridge and eaves lines, and regular changes in materials, the overall massing would be broken up into a series of ‘digestible’ elements which would not only have a human scale but which would also correspond with plot widths found locally.

Design and materials

As far as the design is concerned with the exception of the Juliet balconies and the triangular window, the proposed elevations are essentially pastiche compositions which seek to replicate rather than innovate. Whilst some may argue about the appropriateness of such an approach, it can have equal validity if executed well. That is very much the case here with the elevations displaying good proportions and sympathetic detailing which would not look out of place within a late 19<sup>th</sup>/early 20<sup>th</sup> century context. With the interplay of window types and materials also providing good levels of visual interest, there is no reason to believe that the scheme would not make a positive contribution to the appearance and character of the area. Within this, however, there would clearly be a premium on securing high quality materials and authentic detailing. In terms of the materials the development would utilise a coherent palette of three principal facing materials – brick, render and flint. All three of these has an established presence locally and should offer proven durability against the elements. At roof height red plain tiles have been selected rather than the more conventional pantiles. In this case there are no objections to this for two main reasons; i) Sheringham and the immediate coastal strip is one of the few areas within the District where plain tiles have a historic foothold, and ii) the plain tiles would enable the development to turn the two corners more elegantly than pantiles. In conclusion, extending the buildings footprint to include the adjacent car park would have a beneficial impact in terms of introducing enclosure and animation to what is currently a rather utilitarian space. For these reasons, and because the scheme would at the very least preserve the appearance and character of the Sheringham Conservation Area, Conservation & Design

recommend that this application be approved.

**Environmental Health** - No objection subject to the imposition of appropriate conditions relating to foul and surface water drainage, delivery and collection and demolition.

**Anglian Water** - No objection subject to the imposition of an appropriate condition relating to surface water disposal.

### **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.

### **Relevant Development Plan 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 SS 5: Economy (*strategic approach to economic issues*).

Policy SS 12: Sheringham (*identifies strategic development requirements*).

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

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

Policy EC 5: Location of retail and commercial leisure development (*specifies appropriate location according to size*).

Policy EC 6: Public Car Parking Provision (*prevents loss of public car parking facilities*).

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*).

#### **Other material considerations:-**

North Norfolk Design Guide Supplementary Planning Document (December 2008)

### **Relevant sections of National Planning Policy Framework (NPPF) (2012):**

- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the historic environment

### **MAIN ISSUES FOR CONSIDERATION**

1. Principle of development
2. Dwelling mix and type
3. Affordable housing provision
4. Layout and Design
5. Residential amenity
6. Impact on heritage assets

7. Loss of public car park
8. Access, car parking and highway safety
9. Drainage

## **APPRAISAL**

The Development Committee visited the site on 21 September 2017.

The application was deferred at the meeting on 28 September 2017 in order to allow further consideration to be given to the possible provision elsewhere in the town of the two parking spaces for disabled drivers which would be lost from the Chequers car park.

### 1. Principle of development - Policies SS1, SS3 and SS5

The site is situated within the development boundary for Sheringham, a Secondary settlement, as defined by the North Norfolk Core Strategy in the area zoned as town centre and is also within the Sheringham Conservation Area. In addition part of the site including the Chequers car park is zoned as public realm where proposals shall be expected to enhance the overall appearance and usability of the area.

Within this area Core Strategy Policy SS5 allows for a broad range of shopping and commercial uses with residential being permitted where it does not result in the loss of shops or other main town centre uses. In addition, development proposals should support the role of town centres in meeting local needs and as visitor and tourist destinations.

Subject to compliance with these policies and compliance with other related policies including design and heritage, development of this site would be acceptable in principle.

### 2. Dwelling mix and type - Policy HO1

Core Strategy Policy HO1 requires that on schemes of five or more dwellings at least 40% of the total number of dwellings should comprise a floorspace of not more than 70 Sq. metres, with no more than two bedrooms. However, in order to bring the policy in line with Building Regulations a more flexible approach has recently been adopted which allows for slightly larger dwellings. In this instance in addition to all the dwellings being two bedrooms, four of the properties would have a floor area ranging from 65.36 Sq. metres to 75.15 Sq. metres which is considered to be acceptable in policy terms and that the mix of type of dwellings will be attractive to a range of occupiers within the local community.

### 3. Affordable housing provision - Policy HO2

Notwithstanding the requirements of Core Strategy Policy HO2, the scheme is not required to provide any affordable housing, following amendments to affordable housing thresholds that were introduced by Central Government in December 2014 (upheld by the Court of Appeal in May 2016). The amendment removed the need for developments of 10 or less residential units, or which have a gross internal area of under 1,000 square metres of residential floorspace, to provide affordable housing. The proposed development satisfies both of these criteria and therefore is considered in accordance with current local and national policies in relation to affordable housing.

### 4. Layout and Design - Policy EN 4

Although the site has a total area of some 962 Sq. metres the building would only occupy a footprint of approximately 403 sq. metres of the northern half of the site with the remaining area providing car parking for 11 vehicles, together with 12 cycle parking spaces and bin storage area for the commercial and residential units. The vehicular access would be to the east opposite the Crown public house.

In terms of the buildings scale and massing due to the sloping ground level it will be broken down into a series of 'digestible' elements varying in height from three-storey to three and a

half storey with a maximum height of around 13.5 metres, which is some 2.5 metres higher than the existing building. Elevationally it is proposed that the building will be a pastiche composition with its overall proportions, interplay of window styles and coherent palette of vernacular materials being in context with the area.

As a result whilst it is recognised that the scale and massing of the building will produce a more pronounced differential in scale to that of its near neighbours this is considered to be acceptable and overall the scheme will retain / reinforce the strong sense of enclosure that pervades the street scene. This combined with the polite elevational treatment and choice of materials will result in a scheme which will make a positive contribution to the appearance and character of the area.

In respect of layout and design, it is considered that the proposal would generally accord with the requirements of Core Strategy Policy EN 4.

#### 5. Residential amenity - Policy EN 4

Given the close knit nature of development in the immediate vicinity of the site it is inevitable that there will be some impact on the residential amenity of neighbouring properties.

In particular the linear row of former fisherman's cottages to the northern side of Gun Street, which are predominantly two and half storey in height, would partially lose the sea view which they have enjoyed for the best part of seven decades.

In addition a number of representations suggest that these properties which predominantly have secondary and tertiary windows facing the site would be overlooked and overshadowed by the development.

Under planning law there is no "right to a view" however residents do have rights in terms of loss of outlook and daylight both of which are material planning considerations. As far as outlook is concerned at the present time the occupiers of the dwellings in Gun Street overlook a public car park, which will be similar under the proposed scheme other than it would be parking for residents. In terms of overshadowing and loss of privacy the separation distance between the proposed building and the rear of the cottages would be in the region of 24 metres, which based on daylight calculation angles of 60 and 45 degrees would not result in any direct loss of light or overshadowing. In terms of the window to window separation distances these will be some 9 metres in excess of those identified in the amenity criteria contained in the North Norfolk Design Guide. As a result whilst there could be the perception of being overlooked this would not be a reason in itself to refuse the application. Similarly it is not considered that the residential amenities of the three cottages in Lifeboat Plain would be significantly affected by the development.

The only other property potentially affected by the development is the Two Lifeboats public house to the western side of High Street which has first floor windows facing the site. In this instance although the separation distance between this property and the proposed development will fall short of the amenity criteria by some 8 metres, this arrangement would be no worse than the current relationship. Furthermore, given that the general scale and massing of the proposed building would be broadly similar to that which it would replace it is not considered that there will be any significant increase either in loss of light or privacy.

In respect of residential amenity, it is considered that the proposal would generally accord with the requirements of Core Strategy Policy EN 4.

#### 6. Impact on heritage assets – NPPF Paras 132, 134 and 137

The site is situated in the Sheringham Conservation Area, the historic core being designated in 1975, with areas to the east and west of the town centre being included in 1995. This was followed by the preparation of a draft Conservation Area Appraisal in 2013 which suggested that the Shannoeks is *“a plain and indifferently modernised building, marking the beginning of a visual “low point” along the seafront. Between the Shannoeks and the Mo is an open area, created by the 19th century demolition of part of the historic core. Here there is a short access road and car park, bordered by the unappealing rear elevations of the Gun Street and Lifeboat Plain houses”*.

Historic England has indicated that they consider the views and focal point created by the former hotel, together with the buildings history ensure that the Shannoeks makes a positive contribution to the historic significance of the conservation area. As a result its demolition could harm that significance in terms of the NPPF paragraph 132 and 134. However, they recognise the proposed replacement is appropriate to the area and is broadly similar in form and scale and will deliver some public benefits to be weighed against the harm.

The Planning (Listed Buildings and Conservation Areas) Act 1990 establishes that, in considering applications for planning permission, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area in the exercise of any powers under the Planning Acts (paragraph 72). The National Planning Policy Framework (NPPF) builds upon the 1990 Act. It identifies protection and enhancement of the historic environment as an important element of sustainable development and establishes a presumption in favour of sustainable development in the planning system (paragraphs 6, 7 and 14). The NPPF also states that the significance of conservation areas can be harmed or lost by alteration to them or development in their setting (paragraph 132) and the conservation of heritage assets is a core principle of the planning system (paragraph 17). Furthermore paragraph 137 states that proposals that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of the heritage assets should be treated favourably.

Notwithstanding the comments of Historic England, whilst recognising the Shannoeks is not without local interest and townscape value, in contrast the Council's Conservation Officer considers by virtue of its longstanding shabby appearance, and the number of alterations it has sustained over time, that the buildings contribution is now essentially a neutral one to the overall significance of the heritage asset. As such, it cannot be considered critical capital which must be retained at all costs. Instead, because the property is not a listed building, its demolition can in theory be sanctioned subject to the submission of an appropriate parallel scheme of redevelopment.

Officers therefore consider that, whilst the loss of any heritage asset is regrettable and is an irreplaceable resource, this loss has to be weighed against the public benefits of any replacement building. In this instance, it is considered that the scale, massing and design of the proposed replacement building is appropriate to the area and that overall will make a positive contribution to local character and appearance of this part of the Sheringham Conservation Area, In addition to the benefits of the replacement building, the development of the northern half of Chequers car park would also afford an opportunity to enhance this part of the Conservation Area a reduce the large open expanse of tarmac and concrete. These are public benefits which should, in the opinion of officers, be afforded considerable weight in the decision process.

#### 7. Loss of public car park - Policy EC6

Although the Core Strategy Proposal Map does not identify the Chequers car park as being protected. Core Strategy Policy EC 6 indicates that the loss of public car parking facilities which make an important contribution to local parking provision should not be permitted unless

alternative provision is made available in a suitable location.

In view of the level of local concerns in respect of the loss of the public car parking at the request of the Local Planning Authority the applicant's agent commissioned Canham Consulting Ltd to undertake a Parking Survey Assessment. This involved a Duration Stay Survey and Capacity Assessment for the period 15 - 21 August 2016, during the peak holiday season and covered all four District Council car parks within Sheringham:-

- Chequers car park (34 spaces - although this is actually marked out for 26 spaces)
- East Cliff car park (94 spaces)
- Morris Street car park (115)
- Station Approach car park (294 spaces)

The assessment was undertaken using data collected from the car parks ticket machines, with the Duration Survey being undertaken using the length of the ticket purchased and the Capacity Assessment based on five and seven day average accumulation on an hourly basis for a 24 hour period in each day.

The data shows that the most popular durations are under an hour at Chequers and Morris Street car parks, with 1-2 hours duration at East Cliff and Station Approach. However the assessment suggests that in reality some people may not stay as long as their ticket time. For example during the survey period the only car park to exceed its capacity on a number of occasions was Morris Street in the middle of the day. In addition the Chequers car park exceeded its capacity on one occasion which demonstrates that some people did not stay for the full duration of their tickets.

The survey data indicates that peak occupancy over all the car parks occurred on Thursday 18 August 2016 between 1 and 2 pm with 90% of the total spaces occupied, equivalent to 456 of the 506 total spaces being occupied. This leaves 50 available Council owned spaces and as such there is capacity even at peak times to cover the capacity loss of the Chequers car park.

The Parking Assessment therefore demonstrates that even during the peak holiday period there is spare available capacity within the alternative District Council car parks in the local area of Sheringham. In addition to the Council car parks, visitors to Sheringham have other options for parking in the local area whether short or long stay including 2 hours free parking at Tesco Sheringham (May to Sept) . In addition, for users who stay for under an hour there is also on street parking available throughout the town centre. Therefore whilst the loss of the Chequers car park could cause some inconvenience for local residents, businesses and visitors, primarily through loss of provision close to the seafront, as it can be demonstrated that there is alternative provision within Sheringham town centre, the proposed loss of the car park would not provide justification to refuse the application under Core Strategy Policy EC 6.

In pure highway safety terms the Highway Authority has indicated that, with the provision of adequate signage, the removal of the Chequers public car park would likely improve traffic flows and pedestrian safety, through the reduction in drivers seeking parking in this busy area.

Whilst outside of the formal planning process, having regard to the content of representations received and in terms of meeting its obligations under the Equalities Act 2010, in the event of permission being granted, it would be appropriate for the Council to review the provision of disabled parking facilities across the remaining Council owned car parks in Sheringham to ensure it has adequate provision. It would also be appropriate for the Council to review the accessibility of the remaining car parks so as to ensure access to local shops and services and to the sea front are of an adequate standard to meet the needs of a range of different town centre users.

#### 8. Access, car parking and highway safety - Policies CT 5 and CT 6

As far as car parking is concerned the development will provide for a single car parking space for each of the 10 apartments together 1 disabled space and 12 secure cycle parking spaces. Although this falls short of parking standards contained in the Core Strategy, which indicates that in the case of two bedroom dwellings there should be a minimum of 2 parking spaces per unit the preamble Appendix C: allows for a reduction in these requirements in town centres where there are sufficient local services and access to acceptable levels of public transport. In addition, a reduced provision may also be appropriate in conservation areas where it would result in an improved building design which better enhances the character of the built environment. It is therefore considered that given Sheringham is served by a main line rail link to Norwich and has regular bus services together with a wide range of local shops the level of car parking proposed for the apartments is acceptable.

The Highways Authority has requested a plan showing the footprint of proposed building in order to fully assess net changes to the highway boundary. Although this plan has been received the further comments of the Highway Authority are awaited.

#### 9. Drainage - EN 10

The Drainage Strategy submitted as part of the application indicates that both foul and surface water drainage will be to the existing combined sewer. In terms of the surface water, given the level of impermeable areas, this will require on-site underground storage with the outflow being controlled via a hydrobrake or other control device restricting run off rates.

Anglia Water has indicated that the sewerage system has available capacity for the proposed flows but suggests that a drainage strategy is required in respect of surface water, which can be secured by way of condition.

Subject to these details being secured by planning condition, the proposal would accord with Core Strategy Policy EN 10.

#### Summary

A mixed use development in this location is considered to be acceptable and will contribute both to the commercial viability of the town centre and the mix of residential dwellings and at the same time, enhance the public realm of this part of Sheringham.

In terms of as the building design although it will produce a more pronounced differential in scale to that of its near neighbours given the mixed nature of development within this part of the town centres this is considered to be acceptable. Furthermore, the combination of elevational treatment and palette of materials will it is considered result in a scheme that makes a positive contribution to the character and appearance of the area.

Turning to the issues of residential amenities although it is accepted that some properties particularly in Gun Street will lose their sea view it is not considered that there will be any significant issues of loss of light or overlooking which would warrant refusal of the application.

As far as the impact on the Sheringham Conservation Area although Historic England considers the existing building makes a positive contribution to the historic significance of the area in contrast the Council's Conservation Officer considers that the public benefits of the scheme would outweigh the loss of former Shannocks Hotel. Furthermore it is considered that the proposed development will make a positive contribution to the local character and appearance of the area.

Another area of concern raised by Sheringham Town Council and a number of local residents is the loss of the Chequers car park. As a result of these concerns the applicant has



commissioned a Parking Assessment of the public car parking within Sheringham. This has revealed that even at the height of the holiday season in August there is still spare capacity within the car parks.

In terms of parking within the site, although the proposed provision of one space per dwellings would fall short of the parking standards contained in the Core Strategy this does make allowances for reduced provision in town centres where there are sufficient local services and access to acceptable levels of public transport, which is the case with Sheringham.

Taking the above into consideration, it is considered that the proposal would broadly comply with the requirements of the Development Plan and the guidance set out in the National Planning Policy Framework such that approval is recommended. There are no material considerations that indicate the application should be determined otherwise.

**RECOMMENDATION: Approval subject to conditions relating to:**

The full elements

1. Time Limit
2. Accordance with the submitted plans;
3. Commercial premises - restricted to Use Classes A1/A2/A3/A4 and A5;

*Prior to commencement of development/ first use on site (including demolition)*

4. Demolition and construction management plan for parking, access, dust, noise, material storage;
5. Facing materials to be agreed;
6. Joinery details including shopfronts to be agreed;
7. Submission and agreement of foul and surface water management strategy;

*Prior to first use/occupancy of development*

8. Commercial premises - delivery and collection hours;
9. Details of any extract/ventilation equipment to be installed in the commercial premises

- (5) **BRISTON - PF/17/1681 - Erection of two semi-detached houses to include a detached single garage and new vehicular access.; Land rear of 157 &159 Fakenham Road for Mr K Lawrence**

**Minor Development**

**Target Date: 15 December 2017**

**Extension of Time Date: 29 January 2018**

Case Officer: Miss J Smith

Full Planning Permission

**CONSTRAINTS**

Unclassified Road

Settlement Boundary

Residential Area

**RELEVANT PLANNING HISTORY**

PF/17/1504 - 159 Fakenham Road, Briston, Melton Constable, NR24 2HQ. Single and part two storey side and rear extension and creation of access. Approved 08/11/2017

## THE APPLICATION

Seeks permission for the erection of a pair of two storey semi-detached dwellings with detached single garages on garden land to the rear of 157 and 159 Fakenham Road, Briston.

Access to both plots would be off Hillside.

## REASONS FOR REFERRAL TO COMMITTEE

At the request of Councillor Reynolds on the grounds of impact upon neighbouring residential amenity.

## PARISH/TOWN COUNCIL

Briston Parish Council: Supports the application.

## REPRESENTATIONS

Two letters of objection have been received from the public raising the following grounds:

- Overlooking of existing properties/rear gardens to the east, south and south/east of the site resulting in loss of privacy including noise and disturbance.
- The proposed garages are close to the boundary line and would result in loss of light to the garden area to the east.
- The proposed access would be located on a busy corner and may result in a safety hazard to other road users.

## CONSULTATIONS

County Council (Highway): No objection to the principle of development, however the applicant would need to demonstrate the arrangements for parking provision to the host dwelling (No 159) to avoid displaced parking on the roadside.

Landscape Officer: No objections subject to conditions regarding landscaping.

## 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

Policy SS 3: Housing

Policy HO 7: Making the most efficient use of land (Housing density)

Policy EN 4: Design

Policy CT 5: The transport impact on new development

Policy CT 6: Parking provision

National Planning Policy Framework (NPPF)

Section 6 – Delivering a wide choice of high quality homes

Section 7 – Requiring good design

## MAIN ISSUES FOR CONSIDERATION

Principle of Development

Design and Relationship with Neighbouring Properties

Highways and Parking

## APPRAISAL

### Principle

The site lies within the Development Boundary for Briston in an area designated as 'residential' where the principle of a new dwelling is acceptable under Policy SS1 and SS3, subject to the scheme satisfying a range of other policy criteria.

### Design and Relationship with Neighbouring Properties

Whilst generally the outward appearance of the buildings are considered to be acceptable, officers concern is that the combination of the scale and mass of the dwellings, the topography the site together with the orientation relative to neighbouring properties, would result in a cramped form of development which would not relate sympathetically to the surrounding area to the detriment of the residential amenities of neighbouring properties.

In respect to no. 155 Fakenham Road (to the east of the site) which would share a boundary with the proposed dwellings. At the closest point, the first floor bedroom windows are 7 metres away from the adjoining boundary where the orientation of the proposed dwellings would result in these windows inevitably creating a marked increase in the level of overlooking into the neighbouring rear garden. Turning to the impact upon the bungalows to the south and south/east of the application site (principally No's 1 and 3 Hillside), the proposed two storey dwellings would again introduce views into these neighbouring gardens which would otherwise not exist due to the single storey nature of development on this part of Hillside.

As a result, it is considered that the proposal would result in a significantly detrimental effect on the residential amenity of the occupiers of no. 155 Fakenham Road and occupiers of the bungalows, No's 1 and 3 Hillside, by way of loss of privacy and overlooking. The application is not considered to accord with the aims of Policy EN 4 of the North Norfolk adopted Core Strategy.

### Highways and Parking

The Highways Authority have raised no objection to the proposal on the basis that two parking spaces have been provided for each dwelling which complies with the Council's adopted parking standards under Core Strategy Policy CT 6. However, whilst the Highways Officer notes that parking provision for the donor dwelling (159 Fakenham Road) has not been detailed on the submitted plans, these details have been provided as part of Planning Reference (PF/17/1681) where the applicant sought approval for the '*erection of single and two storey extension and creation of new access*' to 159 Fakenham Road where the Highways Officer did not raise an objection to this proposal. The application is considered to be capable of accords with Policies CT 5 and CT 6 of the adopted Core Strategy where an amended plan can be sought detailing this requirement if members seek approval for the scheme.

### Conclusion

In summary, the proposal would amount to a cramped form of development and result in unacceptable loss of privacy and overlooking impacts on neighbouring properties, contrary to the requirements of Core Strategy Policy EN 4.

## **RECOMMENDATION:**

REFUSE planning permission for the following reasons:

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 statement is considered relevant to the proposed development:

EN4: Design

The National Planning Policy Framework (the NPPF) (published 27 March 2012) is also material to the determination of the application.

In addition Section 3.3.10 of the North Norfolk Local Development Framework Design Guide, which is a Supplementary Planning Document is also considered relevant to the proposed development.

In the opinion of the Local Planning Authority the proposed development, by reason of its scale and massing which when combined with its orientation relative to neighbouring properties would result in a cramped form of development which would not relate sympathetically to the surrounding area. As a consequence, the proposal would have a detrimental impact on the residential amenities of the adjoining properties to the east, south and south-east by way of loss of privacy and overlooking.

The proposal is therefore considered to be contrary to adopted Development Plan Policy EN 4 and there are no material considerations considered sufficient to justify a departure from adopted Development Plan Policy.

- (6) **NORTH WALSHAM - PF/17/0902 - Conversion of stable/barn to create dwelling; Agricultural Building, Adjacent to Bells Cottage, Holgate Road, White Horse Common for Mr F Knights**

**Target Date: 21 September 2017**

**Extension of Time Date: 31 January 2018**

Case Officer: Mrs L Starling

Full Planning Permission

### CONSTRAINTS

LDF - Countryside

Unclassified Road

HO 9 - Rural Residential Conversion Area

Controlled Water Risk - Medium (Ground Water Pollution)

### RELEVANT PLANNING HISTORY

PF/15/1257 - Barn adjacent to Bells Cottage, Holgate Road, White Horse Common, North Walsham - Conversion of stable/barn to create dwelling (Revised scheme 15/0952) - Refused 16/10/2015

PF/15/0952 - Barn adjacent to Bells Cottage, Holgate Road, White Horse Common, North Walsham - Conversion of stable/barn to create dwelling - Withdrawn by Applicant 24/08/2015

PLA/19971147 PF - Bells Cottage, Holgate Road, North Walsham - Conversion of garage and stable to nursery school and private bedroom annexe - Approved 04/12/1997

PLA/19811843 PF - 11/2 Holgate Road, North Walsham - Garage, gig house and stables - Approved 04/12/1981

#### THE APPLICATION

Seeks full planning permission for the conversion of an existing single-storey red brick and pantile stable/barn to create a residential dwelling. The proposed dwelling would comprise of two bedrooms, sitting room, two bathrooms, hallway and wood store, with the dwelling served by its own parking and garden areas.

Access to the site would be via an existing unmade access off Holgate Road.

Members will note that planning permission for a similar scheme to convert this building to a dwelling was refused in 2015 (ref PF/15/1257)

The application is accompanied by a Design and Access Statement, Visual Structural Survey Report, A Preliminary Bat Roost Assessment and Bat Activity Surveys Report and a Noise Report.

#### REASONS FOR REFERRAL TO COMMITTEE

At the request of Councillor Peter Moore on the grounds that he wishes the Committee to consider the proposals relationship to other buildings/uses in this part of the village, particularly in relation to the comments from environmental health. Cllr Moore also requested a site visit be made.

The applicant's agent has a Freedom of Information reply which demonstrates that no action has ever been taken by the Council in respect of complaints from a nearby resident, never-the-less Environmental Health maintain an objection to the application.

#### PARISH/TOWN COUNCIL

North Walsham Town Council - Object on the grounds that the application fails to conform to planning policy as set out in the Local Development Framework in regards to development on agricultural land and environmental issues.

#### REPRESENTATIONS

A petition signed by 21 local residents in support of the application was submitted with the application.

No letters of support or objection have been received from the public as part of the consultation process.

#### CONSULTATIONS

County Council (Highway) - No objections on highway safety grounds subject to the imposition of a condition in respect of onsite parking/turning provision.

Environmental Health - Object on the grounds that the creation of a new dwelling in close proximity to the existing poultry farm, which has generated historic issues/complaints in respect of noise and odour, has potential to result in unacceptable impacts on amenity, to the detriment of the living conditions and residential amenities of any future occupants.

Landscape Officer - No objections subject to conditions in respect of the submission of an Arboricultural Methodology Statement and the scheme being undertaken in accordance with the accompanying Ecological Survey (in respect of bats).

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

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

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

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

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

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 6 – Delivering a wide choice of high quality homes

Section 7 – Requiring good design

Section 11 – Conserving and enhancing the natural environment

## MAIN ISSUES FOR CONSIDERATION

Principle of development

Design and visual impact

Amenity/environmental considerations

Landscape and biodiversity

Highway safety

## APPRAISAL

### Principle of development

The site lies within the Countryside policy area where Policies SS2 and HO9 support the principle of the conversion of rural buildings to residential use, subject to schemes complying a range of other policy criteria.

### Design and visual impact

In respect of compliance with Policy HO9, the building to be converted is considered structurally sound and, other than internal alterations, requires limited extension or alteration works to be carried out to facilitate its conversion to a residential dwelling. The building is

situated in a relatively well screened position, set within a group of other residential properties, as opposed to being located in an isolated rural location.

The scheme is also considered acceptable in design terms, would be served by adequate levels of amenity and parking areas, with the conversion of the building having minimal impact upon the character and appearance of both the building and the wider area.

It is therefore considered that the scheme would accord with the requirements of Policies SS2, SS4, HO1, HO9, EN2 and EN4 of the North Norfolk Core Strategy and Sections 6, 7 and 11 of the NPPF.

#### Amenity/environmental considerations

The contentious element of the scheme relates to environmental issues relating to noise and odour.

Members will note that the previous application to convert this building to a residential dwelling (ref: PF/15/1257) was refused in 2015. This application was refused on the grounds that the activities undertaken at the adjacent Poultry Farm, (Mayfield Poultry Farm) had potential to detrimentally impact upon the residential amenities of any future occupiers of the proposed dwelling, both when occupying the dwelling and using the outside garden areas. Due to the close proximity of the poultry farm, where historic issues/complaints have been received in respect of noise and odour issues resulting from the poultry use, an objection was raised by the Council's Environmental Health Team, on the grounds that any future occupiers of the dwelling would be likely to be subject to unacceptable levels of noise and odour, detrimental to their living conditions and amenity.

Section 11 (in particular Paragraph 123) of the NPPF also states that, when making planning decisions, Local Planning Authorities (LPAs) should take into account issues relating to noise and give careful consideration to permitting developments where they may put undue pressure on the continuance of existing businesses.

Whilst additional noise information has been submitted in support of the current application, the Council's Environmental Health objection is maintained, and it is therefore considered that the scheme would fail to protect residential amenity in accordance with Policy EN4 of the Core Strategy. For clarity, and given the strength of the objection, the comments of Environmental Health are noted below:

*"Any proposed residential development within 400 metres of a poultry unit is a cause for concern. In this case, the proposed conversion is within 40 metres of an existing poultry unit boundary (80 metres to the centre of the farm). Whilst the acoustic report submitted was undertaken appropriately and concludes that the poultry unit is unlikely to have an adverse impact on the proposed dwelling, particularly as the bedrooms are to be located at its north side, it should be noted that Environmental Health have received complaints of noise from residents at a greater distance away. Whilst we have not established a statutory nuisance, we have witnessed noise from fans within the premises which would be likely to result in a loss of amenity. Whilst there are no doubts about the accuracy of the report, it was unclear how many of the poultry units were in operation at the time of the assessment and therefore whether the worst case scenario was assessed.*

*In addition to the above, the main concern would be the potential effect of odour and flies on future residents and the loss of amenity that this could bring. At such close proximity, it would be highly likely that residents would be affected at certain times of the year, bearing in mind that Environmental Health have received a number of complaints historically. Should a statutory nuisance be determined at the proposed property (inside or outside for odour) NNDC would be required to serve an abatement notice on the existing farm. This could severely limit*

*the ability for the farm to operate. If the paddock area (outlined in blue on the location plan) is under the same ownership as the proposed conversion, we could also potentially be in the situation that we would be monitoring at an even closer location.*

*In consideration of the above, the site is considered an unsuitable location for a residential dwelling, given the proximity of Mayfield Poultry Farm and would wish to maintain our objection to the application."*

#### Landscape and biodiversity

The scheme involves the conversion of an existing building, with important sycamore trees situated on the northern site boundary. Whilst no objection has been raised by the Council's Landscape Officer, conditions have been requested in respect of tree and wildlife protection. As such, it is considered that the scheme would protect the important trees and wildlife in accordance with Policies SS4 and EN9 of the Core Strategy and Section 11 of the NPPF.

#### Highway safety

Access to the proposed dwelling would be served via the existing unmade access off Holgate Road, with onsite parking and turning provided. The application has been assessed by NCC Highways who have raised no objections on the grounds of highway safety, subject to the imposition of a condition in respect of onsite parking and turning provision. As such, the scheme would safeguard highway safety in accordance with Policies CT5 and CT6 of the Core Strategy.

### **RECOMMENDATION:**

REFUSE planning permission for the following reasons:

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:

EN 4 - Design

EN 13 - Pollution and hazard prevention and minimisation

NPPF Section 11 – Conserving and enhancing the natural environment - Paragraph 123

In the opinion of the Local Planning Authority, the proposed development would be in an unsuitable location for new residential development, being in close proximity to an adjacent poultry business (Mayfield Poultry Farm) where historic issues/complaints have been received in connection with noise and odour resulting from the poultry use. As such, the future occupiers of the dwelling would be likely to be subject to unacceptable levels of noise and odour which would be detrimental to their living conditions and amenity.

Furthermore, if permitted, it is considered that a dwelling in the location has the potential to impact on the operations undertaken by the adjacent Poultry business, and its continuance/development in the future.

Therefore, it is considered that the proposal would fail to protect residential amenity in accordance with Policy EN4 of the adopted North Norfolk Core Strategy, and Section 11 of the NPPF.



- (7) **WEYBOURNE - PF/17/1740 - Removal of conditions 3, 4 & 5 of planning permission PF/09/0029 to allow residential occupation as a dwelling; The Roost, Bolding Way for Mr Harrison**

**Target Date: 13 December 2017**

**Extension of Time Date: 31 January 2018**

Case Officer: Miss J Medler

Full Planning Permission

#### CONSTRAINTS

LDF - Settlement Boundary

LDF - Residential Area

Conservation Area

Area of Outstanding Natural Beauty

RELEVANT PLANNING HISTORY for The Roost, Bolding Way, Weybourne, HOLT, NR25 7SW

PLA/20090029 - PF – Conversion of games room to one unit of holiday accommodation.  
Approved 14/05/2009

NMA1/09/0029 - Non material amendment request to remove section of rear boundary wall and extend existing flint wall at lower level and to erect flat roof over porch. Approved 04/02/2013

PF/14/0450 - The Barn, Bolding Way, Weybourne, Holt, NR25 7SW. Continued use of land as camp site and retention of amenity block. Refused 03/06/2014 Appeal Dismissed 23/03/2015

PF/17/1740 - Removal of conditions 3, 4 & 5 of planning permission PF/09/0029 to allow residential occupation as a dwelling

#### THE APPLICATION

Planning permission is sought for the removal of Conditions 3, 4 and 5 of planning permission PF/09/0029 to allow for the holiday accommodation restriction to be removed and for the building to be used for permanent residential use.

#### REASONS FOR REFERRAL TO COMMITTEE

At the request of Councillor Young having regard to highway safety and amenity.

#### PARISH COUNCIL

Weybourne Parish Council - No objection.

#### REPRESENTATIONS

None

#### CONSULTATIONS

County Council (Highway) - Object on the grounds of inadequate visibility splays at the junction of the access with the County highway. As far as can be determined from the submitted plans, the applicant does not appear to control sufficient land to provide adequate visibility splays at the site access. The proposed development would therefore cause danger and inconvenience to users of the adjoining public highway and would be detrimental to highway safety.

Environmental Health - No objection/comment

#### 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.

It is considered that refusal of this application as recommended may have an impact on the individual Human Rights of the applicant. However, having considered the likely impact and the general interest of the public, refusal of the application 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

Policy SS 3: Housing

Policy EN 1: Norfolk Coast Area of Outstanding Natural Beauty and The Broads

Policy EN 4: Design

Policy EN 8: Protecting and enhancing the historic environment

Policy EN 13: Pollution and hazard prevention and minimisation

Policy CT 5: The transport impact on new development

Policy CT 6: Parking provision

#### MAIN ISSUES FOR CONSIDERATION

Principle

Design

Amenity

Highway safety

Impact on Area of Outstanding Natural Beauty (AONB)

Impact on Conservation Area

Environmental

#### APPRAISAL

##### Principle

The site is located within the Residential Policy Area of Weybourne where the principle of appropriate residential development is considered to be acceptable, subject to compliance with other relevant Core Strategy policies.

Planning permission was granted under application reference: PF/09/0029 in May 2009, by the then Development Committee, for the building to be converted into holiday accommodation. This was contrary to Officers recommendation following an objection from the Highway Authority, on the same grounds as specified in this report (see Consultations). Holiday accommodation restrictions were imposed in accordance with Policy EC9 of the Core Strategy. This is the District Council's policy in relation to 'Holiday and Seasonal Occupancy Conditions' for new un-serviced holiday accommodation. The reasons for the conditions were because it was not considered that the amenity space and car parking area were sufficient to allow for permanent residential use.

Conditions 3, 4 and 5 of that permission, and their reasons, restricting the use to holiday accommodation are as follows:

### **Condition 3**

The development hereby permitted shall be used for holiday accommodation purposes only and shall not be used as the sole or main residence of the occupiers.

Reason:

In view of the fact that there is limited amenity space and car parking on the site which would not normally be considered acceptable for permanent residential accommodation in accordance with Policy EN4 and to accord with Policy EC9 of the adopted North Norfolk Core Strategy.

### **Condition 4**

The holiday accommodation hereby permitted shall be available for commercial holiday lets for at least 140 days a year and no let must exceed 31 days.

Reason:

In order to comply with the requirements of Policy EC9 of the adopted North Norfolk Core Strategy.

### **Condition 5**

A register of lettings/occupation and advertising will be maintained at all times and shall be made available for inspection to an officer of the Local Planning Authority on request.

Reason:

In order to comply with the requirements of Policy EC9 of the adopted North Norfolk Core Strategy.

These are the conditions that the current permission is now seeking to remove. However, it is not considered that there has been a change in circumstances since the approval of application PLA/2009/0029, that would mean such a proposal for permanent residential use is acceptable and in accordance with Development Plan policies. There is no change to the amenity or car parking area from that previously approved.

The principle of the proposal complies with Policy SS1 of the adopted Core Strategy, which directs new residential development to sustainable locations of which Weybourne is a Coastal Service Village. However it is not considered that the proposal constitutes appropriate residential development, in this location, and is therefore contrary to Policy SS3 of the Core Strategy. This is expanded upon further in the paragraphs below.

### Design

The building is already converted and the design and materials are considered to be acceptable. The proposal is therefore considered to comply with Policy EN4 of the Core Strategy in design terms.

### Amenity

The relationship to the surrounding neighbouring dwellings is considered to be acceptable. This was carefully considered and incorporated into the design for use as holiday accommodation under planning permission reference: PLA2009/0029. Therefore there would be no overlooking/loss of privacy to surrounding dwellings.

However, in accordance with the North Norfolk Design Guide and Policy EN4 of the Core Strategy, when assessing proposals for residential use consideration needs to be given to the amenity space available to the property to which the proposal relates. The North Norfolk Design Guide recommends private garden areas to be of adequate size and shape to serve their intended purpose, and that the area of a plot given over to private amenity space should normally be no less than the footprint of the dwelling on that site.

The reason for the holiday restriction in the first place was because of limited amenity space available for a permanent residential dwelling. This still applies. In this case the 'garden area' constitutes a small patio measuring approximately 13sqm. The footprint of the existing building is approximately 43sqm. Whilst there is a gravel area to the east of the building this is open space for car parking. If this were to be lost to garden it would result in the loss of on-site car parking. This would not be acceptable. It is not therefore considered that the proposal would provide appropriate amenity space for future occupiers, and this would be significantly detrimental to the residential amenities of the future occupiers. The proposal is contrary to Policy EN4 of the Core Strategy in terms of amenity.

#### Highway safety

The Highway Authority are objecting to the application. Originally their grounds of objection included lack of on-site car parking provision as no plan had been provided to show where the required car parking would be located. Following the receipt of an amended plan showing the car parking provision the Highway Authority have partly removed their objection, in relation to this particular ground only. The proposal therefore complies with Policy CT6 of the Core Strategy.

However, the Highway Authority objection remains in relation to the severely restricted visibility in both directions at the access with the County highway, and that the applicant does not appear to control sufficient land to provide the required visibility.

The Highway Authority have taken into consideration the planning history of the site, and the previous concerns they have raised regarding intensification of the use of the site due to the substandard nature of the access onto the highway network.

The access which will serve this proposal leads directly onto the A149, (a 'Special' route as defined in the Norfolk County Council Route Hierarchy) and has severely limited visibility in both directions due to the existence of the roadside fronting flint wall. Visibility is restricted to approximately 11m in the critical direction to the east and 10m to the west at the required setback of 2.4m. Visibility guidance given in 'Manual for streets' for the 20 mph limit, in force at this site on The Street, requires visibility splays of 25m at a setback of 2.4m. Accordingly the available visibility only provides 44% of this requirement to the east and 40% to the west. There is a marginal increase in visibility at a 2.0m setback where the distance in the critical direction to the east increases to approximately 14m, and the 13m to the west. Subsequently the available visibility increases to only 56% of this requirement to the east and 52% to the west.

It is accepted that the proposed access currently serves the existing site, however in considering whether the access is suitable for serving further development, it needs to be considered in terms of current visibility standards. The Highway Authority considers that, due to the nature of its seasonal use, a holiday accommodation use is expected to typically generate 3 vehicle movements per day. Whereas typically a dwelling would generate double this, with 6 movements per day. This would therefore be considered an intensification of use of the site, with 3 additional movements per day through the substandard access. The Highway Authority have noted that their concerns with regard to the substandard nature of the access has been supported at appeal (ref: APP/Y2620/A/14/2228336) albeit for development on a larger scale. In this instance the inspector noted that a further 'intensity of use of the access..... would not be acceptable due to its appreciably restricted visibility'. It was concluded that further use 'would unacceptably increase the risk to highway safety at the junction of Bolding Way and the A149'. In light of this, the proposal is considered intensify the vehicular use of the sub-standard access contrary to the Policy CT5 of the Core Strategy.

#### Impact on Area of Outstanding Natural Beauty (AONB)

The site is located within the AONB. However, given the buildings location within an already

developed area and that no external alterations are required it is not considered that the proposal would have a significant detrimental impact upon the special qualities and setting of the AONB. The proposal complies with Policy EN1 of the Core Strategy.

#### Impact upon Conservation Area

The site is located within the Conservation Area. However, given its secluded location and that no external alterations are proposed it is not considered that the proposal would have a significant detrimental impact upon the character and appearance of the Conservation Area. The proposal complies with Policy EN8 of the Core Strategy.

#### Environmental

Environmental Health were consulted on the proposal and have raised no objections/comments. The proposal complies with Policy EN13 of the Core Strategy.

#### Conclusions

In conclusion, whilst the principle of new residential development is acceptable in this location, the proposal as submitted is not considered to constitute appropriate residential development. This is due to the insufficient provision of amenity space for a permanent residential use, which would have a significant detrimental impact upon the residential amenities of the future occupiers. In addition, inadequate visibility splays are provided at the junction of the access with the County highway and this would cause danger and inconvenience to users of the adjoining public highway. As far as can be determined from the submitted plans, the applicant does not appear to control sufficient land to provide adequate visibility at the site access. The proposed development would therefore be detrimental to highway safety. The proposal is therefore considered to be unacceptable and contrary to Development Plan policies.

#### **RECOMMENDATION:**

#### **REFUSE planning permission on the following grounds:**

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:

SS 1 - Spatial Strategy for North Norfolk  
SS 3 - Housing  
EN 4 - Design

It is the opinion of the Local Planning Authority that by virtue of the limited amenity space proposed the proposal would result in an inappropriate form of residential development, which fails to have regard to the North Norfolk Design Guide. The North Norfolk Design Guide recommends private garden areas to be of adequate size and shape to serve their intended purpose, and that the area of a plot given over to private amenity space should normally be no less than the footprint of the dwelling on that site. The proposal would therefore provide insufficient amenity space for the future occupiers of the site to the detriment of their residential amenities.

In addition, inadequate visibility splays are provided at the junction of the access with the County highway and this would cause danger and inconvenience to users of the adjoining public highway. As far as can be determined from the submitted plans, the applicant does not appear to control sufficient land to provide adequate visibility at the site access. The proposed development would therefore be detrimental to highway safety.

The proposal is therefore contrary to the above Development Plan Policies.

(8) **APPLICATIONS RECOMMENDED FOR A SITE INSPECTION**

A site inspection by the Committee is recommended by Officers prior to the consideration of a full report at a future meeting in respect of the following applications. The applications will not be debated at this meeting.

Please note that additional site inspections may be recommended by Officers at the meeting or agreed during consideration of report items on this agenda.

**RAYNHAM - PF/17/0729 - Erection of 94 dwellings with associated infrastructure; conversion of former NAAFI building to provide community centre; new allotments (within Kipton Wood); new play area (within The Orchard); Kipton Wood and The Orchard, Former RAF Base, West Raynham for Mr Fox**

**REASON FOR REFERRAL TO COMMITTEE**

To ensure members are fully aware of the particular characteristics of the site, specifically the sites location, the surrounding highway network and historic character of the site.

**WORSTEAD - PF/17/1510 - Alterations and conversion of former wood yard barns to wedding venue with associated car parking and landscaping; The Wood Yard, Worstead Park for Mr Paterson**

**REASON FOR REFERRAL TO COMMITTEE**

To expedite the processing of the application, to understand the particular characteristics of the site and the constraints of the local area.

**RECOMMENDATION:-**

**The Committee is recommended to undertake the above site visits.**

(9) **DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE – QUARTER 3 2017/18**

**1. Introduction:**

1.1 This report sets out the third 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.

<b>Measure and type of application</b>	<b>2017 threshold and assessment period</b>	2018 threshold and assessment period
<b>Speed</b> 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.
<b>Quality</b> 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> ).
<b>Speed</b> 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> ).
<b>Quality</b> 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.

### 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.

<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>

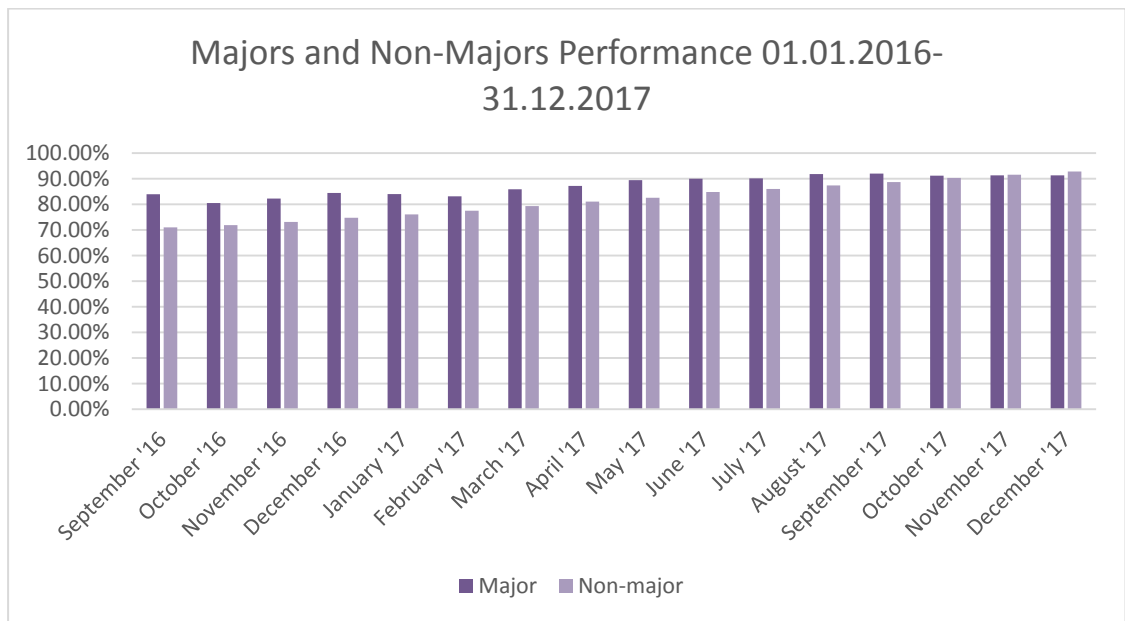
Year	Month	Type	Gvt performance indicator (NI157)  Cumulative (month + 23 preceding months)	National PI 2017 criteria  Majors (50%) Non-Maj (65%)	National PI 2018 criteria  Majors (60%) Non-Maj (70%)
2016	Sept	Major	<b>83.95%</b>		
		Non-Maj	<b>71.00%</b>		
	Oct	Major	<b>80.52%</b>		
		Non-Maj	<b>71.90%</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>		
	July	Major	<b>90.14%</b>		
		Non-Maj	<b>86.00%</b>		
	August	Major	<b>91.80%</b>		
		Non-Maj	<b>87.40%</b>		
	Sept	Major	<b>92.00%</b>		
		Non-Maj	<b>88.67%</b>		
	Oct	Major	<b>91.20%</b>		
		Non-Maj	<b>90.30%</b>		
	Nov	Major	<b>91.30%</b>		



		Non-Maj	<b>91.59%</b>		
	Dec	Major	<b>91.30%</b>		
		Non-Maj	<b>92.80%</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 will avoid being designated as under-performing.

3.3 Compared to the end of quarter 3 last year there has been a 6.8% increase in performance of major applications, and an 18% increase in performance for non-major applications.



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.

	<b>Appeals overturned (lost)</b>	<b>Total applications decided (1 Jan 2016-31 Dec 2017)</b>	<b>%</b>
<b>Majors</b>	0	69	0
<b>Non-Majors</b>	13	2363	0.55

#### 4. National published figures and comparison to other Norfolk authorities:

4.1 On 20<sup>th</sup> December 2017 the Government published the updated performance tables for the 24 month cumulative period (1<sup>st</sup> Oct 2015 – 30<sup>th</sup> Sept 2017), annual (1<sup>st</sup> Oct 2016 – 30<sup>th</sup>

Sept 2017) and quarter 2 (1<sup>st</sup> July – 30<sup>th</sup> Sept 2017) data.

4.2 Below are tables showing the performance of North Norfolk against that of other Norfolk authorities for each data set.

<b>24 month cumulative period performance of Majors and Non-Majors (speed)</b> <b>(1<sup>st</sup> October 2015 – 30<sup>th</sup> September 2017)</b>		
<b>Authority Name</b>	<b>Majors (speed)</b>	<b>Non-Majors (speed)</b>
Breckland	69.5%	92.3%
Broadland	82.9%	91%
Great Yarmouth	91.7%	78.6%
King's Lynn & West Norfolk	79.4%	80.8%
<b>North Norfolk</b>	<b>92%</b>	<b>88.2%</b>
Norwich	89.8%	89.5%
South Norfolk	97.2%	95%

4.3 As can be seen from the table above, this data looks back to performance from October 2015, which whilst improving, is still pulling our overall performance percentage down. This will improve in the next quarter as the older data falls away.

<b>Annual performance of Majors, Minors and Others applications (speed)</b> <b>(1<sup>st</sup> October 2016 – 30<sup>th</sup> September 2017)</b>						
<b>Authority Name</b>	<b>Majors</b>		<b>Minors</b>		<b>Others</b>	
	<i>% in 13/16 weeks or agreed EOT</i>	<i>% out of time</i>	<i>% in 8 weeks or agreed EOT</i>	<i>% out of time</i>	<i>% in 8 weeks or agreed EOT</i>	<i>% out of time</i>
Breckland	69%	31%	90%	10%	97%	3%
Broadland	82%	18%	89%	11%	92%	8%
Great Yarmouth	100%	0%	81%	19%	92%	8%

King's Lynn & West Norfolk	83%	17%	78%	22%	84%	16%
<b>North Norfolk</b>	91%	9%	94%	6%	97%	3%
Norwich	83%	17%	83%	17%	89%	11%
South Norfolk	100%	0%	97%	3%	98%	2%

4.4 As can be seen from the above, based on the annual data, North Norfolk is the 3<sup>rd</sup> highest performing authority for major applications, and the second highest performing authority for minors and others applications.

<b>Quarter 2 performance of Majors, Minors and Others applications (speed)</b> (1 <sup>st</sup> July 2017 – 30 <sup>th</sup> September 2017)						
<b>Authority Name</b>	<b>Majors</b>		<b>Minors</b>		<b>Others</b>	
	<i>% in 13/16 weeks or agreed EOT</i>	<i>% out of time</i>	<i>% in 8 weeks or agreed EOT</i>	<i>% out of time</i>	<i>% in 8 weeks or agreed EOT</i>	<i>% out of time</i>
Breckland	81%	19%	90%	10%	94%	6%
Broadland	50%	50%	88%	12%	91%	9%
Great Yarmouth	100%	0%	75%	25%	94%	6%
King's Lynn & West Norfolk	100%	0%	91%	19%	83%	17%
<b>North Norfolk</b>	100%	0%	98%	2%	99%	1%
Norwich	83%	17%	85%	15%	90%	10%
South Norfolk	100%	0%	97%	3%	98%	2%

4.5 The data in the table above demonstrates that in quarter 2, North Norfolk determined 100% of all major applications within time or an agreed extension of time, and is the highest performing authority across the county for minors and others applications.

## **5. Recommendations:**

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

## **(10) 8 WIVETON ROAD, BLAKENEY – JUDICIAL REVIEW RESULT**

### **1. Introduction:**

1.1. This report summarises the points raised in the judgement of His Honour Mr Martin Rodger QC in relation to the judicial review brought by North Norfolk Planning Watch Ltd (the Claimant) against North Norfolk District Council (the Defendant) and Mr Ross McIntyre and Miss Rachael Thrower (the Interested Parties (applicant) in relation to the application (PF/16/1417) for 8 Wiveton Road, Blakeney, which sought planning permission for the erection of a replacement dwelling following demolition of the existing dwelling.

### **2. The Claimant's Case:**

2.1 The Claimants case was that the grant of planning permission was unlawful based on 4 individual but related grounds which can be outlined as follows:

- i) That the use of an incorrect application form deprived the Council of the necessary jurisdiction to permit the New Rectory's demolition;
- ii) That the Committee had been provided with insufficient information to enable it to properly consider whether the demolition of the New Rectory was justified;
- iii) That inadequate consideration had been given to the issue of local listing raised by objectors, and;
- iv) That in giving approval to the use of "Corten" steel on the replacement building the defendant had failed to consider the preservation or enhancement of the Conservation Area as required by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2.2 The Judicial review was heard in the Royal Courts of Justice on 29<sup>th</sup> November 2017 with the Claimant represented by Mr John Pugh-Smith, of 39 Essex Chambers and NNDC represented by Ms Clare Parry of Cornerstone Barristers. The Interested Parties chose not to become involved in these proceedings and since the challenge was to the decision of the NNDC and not to the application this was both reasonable and understandable.

### **3. The decision:**

3.1 In his judgement, His Honour Mr Rodger QC considered factual details in relation to the application and objections, his consideration of the officer's report, information on the site visit, a report submitted on behalf of the Claimant as part of the application process and the comments of Conservation & Design Officers of NNDC on the application, and the meeting held by the then Development Committee Members. These can be found at paragraphs 9 to 37 of the appended decision (see **Appendix 2**).

3.2 The relevant legal principles applicable to the challenge are set out in paragraphs 38 to 42 of the decision and the policy context outlined in paragraphs 43 to 48.

3.3 Addressing each of the grounds in turn, His Honour Mr Rodger QC was unequivocal in his

dismissal of the grounds. This report summarises his findings on each ground on in turn.

**Ground 1: That the use of the incorrect application form deprived the Council of the necessary jurisdiction to permit the New Rectory's demolition**

- 3.4 The claimant argued that the 'enhanced' application form, accessible through the NNDC website, for planning permission for relevant demolition in a conservation area should have been used, rather than the 'standard' application form for planning permission that was used in this case. The 'enhanced' form specifically requires an explanation or justification for the demolition of the building within a Conservation Area. The difference between this 'enhanced' form and the 'standard' form used by the applicant was this 1 question. The Council's case was that the 'standard' form used in this case, together with the information submitted in support of the application, was 'substantially to the same effect' as the 'enhanced' form.
- 3.5 His Honour Mr Rodger QC did not accept the Council's (Defendant's) submission that the application form was 'substantially to the same effect' as the enhanced form that the Claimant stated should have been used. However, he did consider that the form used and its supporting material, namely the plans, design and access statement and ecology report, were 'substantially to the same effect' and in finding such dismissed this ground. On this basis he considered it to be "inconceivable" that the planning officers could properly have rejected the application as having failed to provide the particulars required by the Regulations and could be adequately considered by the Local Planning Authority (LPA). He therefore did not consider it necessary to address the Claimant's submission that the LPAs jurisdiction was void.

**Ground 2: That the Committee had been provided with insufficient information to enable it to properly consider whether the demolition of the New Rectory was justified**

- 3.6 This ground follows on from Ground 1 above. The Claimant argued that the Council, as a result of the wrong form having been used, did not have all the necessary information to enable it to properly consider the application, in particular the demolition of the building within a Conservation Area. The Claimant took particular issue with statements concerning the condition of the existing building by both the applicant and NNDC's Conservation & Design Officer. As such, the Claimant argued that the Development Committee had insufficient information to judge the benefits of retention of the building as opposed to the benefits of loss of the building.
- 3.7 In his judgement, His Honour Mr Rodgers QC concluded that the Committee Members were 'appropriately informed' of the condition of the building by the officer's report, having had opportunity to appreciate that condition themselves at their own site visit. The suggestion that the Committee were significantly misled, whether by the report as a whole or specific aspects of it, is unsustainable. He therefore rejected Ground 2 of the claim.

**Ground 3: That inadequate consideration had been given to the issue of local listing raised by objectors**

- 3.8 The Claimants focused on the consideration given by the Council (the Defendant) on the possibility of adding 8 Wiveton Road, Blakeney, to the Local List of non-designated heritage assets. The Claimant focused on 3 sub-grounds:
- i) Whether the Conservation & Design Officer had the appropriate authority to reject the request for local listing;
  - ii) Whether the Defendant (the Council) should have consulted on the request for local listing, and;

iii) Whether the presentation by officers at the Development Committee Meeting was “legally sound” in relation to the heritage value of 8 Wiveton Road, Blakeney.

3.9 His Honour Mr Rodgers QC concluded that the issue of local listing as one aspect of determining a planning application. The role of the Conservation & Design Officer in that process was included in his job description and delegations. Part of that is to assess the merits of buildings proposed for demolition in a conservation area, where this is sought. Had the Conservation Officer determined the building to be worthy of local listing there was a clear process of Cabinet ratification to follow, but in determining the building was not worthy of local listing, he was fulfilling his role to advise on, and determine planning applications – a separate process of determining an application for local listing was not being engaged.

3.10 Turning to the expectation of additional consultation, the Claimant argued that the failure to publicise the Local Listing criteria published in 2001 was contrary to the Council’s commitment to provide clear information and to re-advertise and re-consult on significant adverse amendments. In addition, they stated that the comments made by the Conservation & Design Officer with regard to Local Listing were displayed late and hence it was “unfair” to the objectors. The Claimant then argued that the Committee was “bounced” with additional information at the meeting with regard to the decision not to locally list the building, with no opportunity for them to assess the significance of the submitted architectural appraisal by the Claimant in this regard.

3.11 His Honour Mr Rodgers QC did not accept that the submissions by the Claimant during the application (namely the architectural appraisal by Mr Bradbury) were “such a game changer” that it was necessary for any further consultation. He concluded that it was for the Council’s officers with the relevant expertise, to determine whether further consultation would add any value to the Committee’s consideration of the application and that he had no reason to doubt that the Conservation & Design Officer’s consultation response in regard to the submitted architectural appraisal was anything other than a “conscientious assessment of the building” and that the absence of a further round of consultation does not render the decision unlawful.

3.12 Turning to the officer presentation, the Claimant argued that the Council’s officers had been alerted to the Claimants intention to prepare an architectural appraisal earlier in the application process, and therefore should have carried out an appraisal against the local listing criteria at or shortly after that time – avoiding the “bouncing” of members at the Development Committee meeting with this important information. His Honour Mr Rodger QC noted in his decision that he felt the officer report had clearly explained the issues with regard to heritage, and case law does not suggest that an oral report to members can never be used to supplement an officer’s report, rather the suitability of such an approach depends on the nature and extent of the new information. His Honour Mr Rodger QC concluded that Members were well able to make a properly informed determination of the proposal.

3.13 All three limbs of Ground 3 were dismissed as unsustainable.

**Ground 4: That in giving approval to the use of “Corten” steel on the replacement building the defendant had failed to consider the preservation or enhancement of the Conservation Area as required by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990**

3.14 This ground moves away from the demolition of 8 Wiveton Road, to the materials proposed in the design of the replacement dwelling. The Claimant argued that the use of Corten steel, particularly, how this material weathered, was not untried and untested in this location and that the proposed conditions lacked any requirement for testing which

given the coastal nature of the site, should have been included. As such, the Council failed in its Duty under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to preserve the Conservation Area.

3.15 His Honour Mr Rodger QC observed that the visual representations of the proposed building were available at the meeting, this very point was raised by members and discussed, and concluded that the conditions are sufficient to ensure the material is “visually appropriate”. In any event, he concluded that until the Council was satisfied that concerns about the appropriateness of the material had been addressed, consent could be withheld until officers considered it appropriate for it to be granted. As such he dismissed Ground 4.

#### **4. Learning points arising from the decision:**

4.1 It is clear from the decision that there are some learning points the Council can take on board from this decision.

4.2 Where necessary, we will in future seek the completion of the ‘enhanced’ application form if development proposals seek demolition of an un-listed building in a Conservation Area. A note to this effect will be added to our Local Validation Checklist. However, on the basis of this decision, it is clear that providing the other documentation submitted with the application clearly describes the development proposed, and provides the justification of the loss as required by the ‘enhanced’ form – we do not have to insist on its completion. An additional check will also be introduced to establish that the correct form is being used in all cases.

4.3 In addition, a review of officer authorisations and delegated responsibilities will be undertaken to ensure absolute clarity and further, where possible, comments of consultees will be displayed on the Council’s website as quickly as possible (albeit accepting that in this case the information Officers were commenting on was also received late in the application process).

4.4 Further, a review of the local listing procedure so it is made clear that the CDO has responsibility for the review in any authorisations (probably to be signed off by Head of Planning if a negative review) which is only referred to Cabinet if the recommendation is to list.

#### **5. Conclusion and recommendations:**

5.1 There are clearly learning points from this decision, albeit the decision went in the favour of the Council. These will be added to the other service improvements being introduced, and responsibility and a timetable for implementation will be defined by Service Managers in conjunction with the Head of Planning.

5.2 It is evident from this decision that His Honour Mr Rodgers QC considered the Council’s processes and procedures followed in relation to this application to be “legally sound” and as such this decision supports the belief within the service that we are doing a good job for our local communities.

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

## **APPEALS SECTION**

### **(11) NEW APPEALS**

**BRISTON - PO/17/0656 - Erection of 3x detached bungalows and garages and demolition of existing dwelling (Outline); Carefree, Providence Place for Mr Thompson**

WRITTEN REPRESENTATIONS

**CORPUSTY AND SAXTHORPE - PF/17/1209 - Conversion of 2no. agricultural outbuildings to 2no. holiday let units; Little London Farm, Town Close Lane, Little London, Corpusty for Mr Casburn**

WRITTEN REPRESENTATIONS

**CORPUSTY AND SAXTHORPE - PF/17/0470 - Demolition of dwelling, garage & outbuilding & erection of 2 semi-detached bungalows; Sunnyside, Post Office Lane, Saxthorpe for Sparksfield Ltd**

WRITTEN REPRESENTATIONS

**RUNTON - PF/17/0870 - Erection of single storey dwelling; Beacon Hill, Sandy Lane, West Runton for Mr & Mrs Broughton**

WRITTEN REPRESENTATIONS

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

No report

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

**BRISTON - PU/17/1044 - Notification for prior approval for change of use of agricultural building to a dwelling house (Class C3); The Old Piggery, Reepham Road for Mr Blowes**

**FAKENHAM - PF/17/0469 - Erection of two storey dwelling; 17 Greenway Close for Ms Richardson**

**FELMINGHAM - PO/17/1042 - Erection of one a half storey dwelling with access off Goulders Lane (outline - details of appearance reserved); Land at Rear of Larks Rise, North Walsham Road for Mr & Mrs Emms**

**NORTH WALSHAM - PF/17/0002 - Variation of Condition 2 of planning permission reference: PF/16/0313 to allow for alterations to first and ground floor fenestration, second floor south elevation fenestration and insertion of rooflights; Aitken House, 28 Yarmouth Road for Mr & Mrs Joory**

**NORTH WALSHAM - PU/17/0685 - Prior approval for proposed change of use of agricultural building to dwellinghouse (Class C3) and associated operational development; Barn Adjacent to Brick Kiln Farm, Lyngate Road for Mr Denby**

**SKEYTON - PU/17/1160 - Notification for prior approval for a proposed change of use of agricultural building to dwellinghouse (Class C3) & for associated operational development; Willow Farm Barn, Swanton Abbott Road for Mr Medler**



**MELTON CONSTABLE - ENF/16/0087 - Removal of Clock Mechanism - Listed Building; Clock Tower, Melton Constable Hall, Dereham Road, Melton Constable**

**MELTON CONSTABLE - ENF/16/0088 - Removal of Cupola - Listed Building; Fire Engine House, Melton Constable Hall, Melton Park, Dereham Road, Melton Constable**

**NORTH WALSHAM - ENF/16/0265 - Building works not being built according to approved plans; Aitken House, 28 Yarmouth Road**

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

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

**STALHAM - PF/17/0385 - Erection of single storey dwelling with integral garage; Land off Moor Lane, Stalham for Mr Macnab**  
APPEAL DECISION:- **APPEAL ALLOWED**

**SUTTON - PU/16/1765 - Prior notification of intention for change of use of agricultural building to dwellinghouse (C3) and associated operational development; Former Piggery, Boundary Farm, Hickling Road, Sutton, Norfolk, NR12 9SH for W J Bracey Ltd**  
APPEAL DECISION:- **APPEAL DISMISSED**

**SWANTON ABBOTT - PF/17/0083 - Change of land from agricultural for siting of two shepherd huts for holiday accommodation; associated works; Hall Farm House, Black Horse Road, Skeyton, NORWICH, NR10 5DJ for Mr Morton**  
APPEAL DECISION:- **APPEAL DISMISSED**

**NORTH NORFOLK DISTRICT COUNCIL**  
 HOLT ROAD CROMER NORFOLK NR27 9EN  
 Telephone 01263 513811  
 www.northnorfolk.org  
 e-mail planning@north-norfolk.gov.uk



Mr Wood  
 Feilden and Mawson LLP  
 1 Ferry Road  
 Norwich  
 Norfolk  
 NR11SU

Application Number  
 PF/17/0696

Date Registered  
 25 May 2017

Hoveton

## NOTICE OF DECISION

**Town and Country Planning Act 1990**  
**The Town and Country Planning (Development Management Procedure) (England)**  
**Order 2015**

**Location: Church Field, Hoveton, NR12 8NY**

**Proposal: Erection of 25 dwellings with associated roads and landscaping, extension to church graveyard and off-site highways works**

**Applicant: FW Properties**

**NORTH NORFOLK DISTRICT COUNCIL**, in pursuance of powers under the above mentioned Act, hereby **REFUSE** to permit the above mentioned development in accordance with the accompanying plans, for the reasons specified hereunder:

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

These policies are considered to be consistent within the National Planning Policy Framework. 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.

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 justify the degree of conflict with the local planning policy.

2) In addition to proposing measures to make the residential development acceptable in this location, the development offered a range of public benefits which would principally be achieved by this application providing a means to enable development of nearby land for commercial purposes. The associated commercial development which would benefit from the enabling works is within the same land ownership, and it is argued to be dependent on delivery through this application, which was proposed in principle to be secured by way of planning obligation.

The public benefits of the subject proposal were considered to include:

- Provision of access to land and serviced infrastructure for construction of up to 4no. buildings for commercial use, suitable to house a growing company and allow room for its future expansion, re-locating 11 company jobs and allowing approximately 10-15 additional jobs, and facilitating other commercial occupancy, to provide up to 45 jobs in total within the commercial land development area;  
and,
- Provision of an extended graveyard and maintenance contribution for the adjoining Church, to the benefit of the wider parish.

Whilst these benefits are considered to attract some weight in the decision making process, taken as a whole they are not considered to attract sufficient weight collectively to outweigh the identified conflict with the development plan.

## NOTES TO APPLICANT

The applicant is advised that the decision is made following consideration of the following submitted plans and documents:

8110A-001-A06 (received 21.08.17)	Site Location Plan (revised) and Topographic Site Survey
8110A-002-A15	Site Plan Proposed (received 21.08.17)
8110A-050-A00	5 Bed House (Large) (received 04.05.17)
8110A-051-A02	5-Bed House (received 21.08.17)
8110A-052-A00	4 Bed Bungalow (received 04.05.17)
8110A-053-A01	4-Bed House (Large) (received 21.08.17)
8110A-054-A00	4 Bed House (received 04.05.17)
8110A-055-A00	3 Bed Bungalow (received 04.05.17)
8110A-056-A00	3 Bed House (received 04.05.17)
8110A-057-A01	3-Bed House (Small)+2-Bed House (received 21.08.17)
8110A-058-A00	2 Bed House (Aff) (received 04.05.17)
8110A-059-A00	2 Bed Bungalow (received 04.05.17)
8110A-060-A00	1 Bed House (Aff) (received 04.05.17)

8110A-061-A02 Garages (received 04.05.17)

8110A-062-A03 Street elevations and site sections (received 02.08.17)

8110-064-A01 Section through Plot 09 (site levels alterations) (received 21.08.17)

8110-090-A00 Buffer Zone fencing and bund at Plots 6-9 (received 21.08.17)

8110-091-A00 Play Area Natural Surveillance (received 21.08.17)

8110-2017-07-03 Play Equipment indicative (received 03.07.17)

CL-200-P5 Foul and surface water drainage strategy (received 21.08.17)

CL-201-P2 Off-site drainage routes - outfall to River Bure (received 21.08.17)

Pipeline Root Protection Detail (received 17.08.17)

Drainage sketch showing Three Stage Petrol / Oil Interceptor (received 22.08.17)

Sketch plan: Minor ground raising at Plot 9 (received 17.08.17)

CL-115\_P1 Proposed off-site highways masterplan (received 17.08.17)

CL-110-P6 Proposed speed limit and gateway feature amendments (received 22.08.17)

141133\_CL-211\_P1 Horning road longitudinal sections and accompanying road traffic speed survey data (received 07.07.17)

4538.4 Proposed Ecology Enhancements Map (received 17.08.17)

8110-2017-05-12 Masterplan showing associated Hoveton employment site (ref PF/16/0733) (received 04.05.17)

8114-002-A03 Layout of associated Hoveton employment site (ref PF/16/0733) (received 04.05.17)

ARC/1628/616 Archaeological Geophysical Survey dated January 2016 (received 04.05.17)

141133 Flood Risk Assessment Drainage Strategy dated 15.02.16 (received 04.05.17), with amended micro-drainage calculations (received 26/07/17 and 17/08/17), and updates to strategy within letter from Rossi Long ref RAC/SJB/141133 (received 10.07.17)

Pre-Planning Assessment Report by Anglian Water dated 21.07.14 (received 10.07.17)

ADB/16.054B/Add Drainage Soakaway Addendum report (received 17.08.17)

141133 SuDS Management and Maintenance proposal (received 17.08.17)

141133 Ground Conditions Desk Study dated 15.02.16 (received 04.05.17)

8110 Rev A03 Heritage Impact Assessment dated July 2016 (received 04.05.17)

Landscape & Visual Impact Assessment dated July 2016 (received 04.05.17)

Planning Statement dated July 2016 (received 04.05.17)

Statement of Community Involvement dated May 2016 (received 04.05.17)

8110A Design-Access-Statement-A02 (received 04.05.17)

4538.1 Ecology-Report - Preliminary appraisal (received 09.05.17)

Revised Arboricultural Implications Assessment dated 17 May 2017 (received 17.05.17) with Appendix 3 Tree Constraints Plan and Appendix 4 Tree Protection Plan

4538.1 (14.06.17) Ecology report - Reptile survey v1 (received 20.06.17)

4538.1 (16.06.17) Ecology report - Barn owl survey v1 (received 20.06.17)

DJM/16.300/TIER1 (08.09.16) Tier 1 Contamination Assessment - risks to controlled waters at proposed cemetery extension, dated 08.09.16 (received 23.06.17)

4538.3 REV 0.3 Habitat Regulations Assessment Screening Assessment (received 17.08.17)

Decision Date 20 September 2017



Nicola Baker, Head of Planning  
Acting under Delegated Authority  
On Behalf of the Council

**Notes relating to decisions on planning applications**

1. This decision refers only to that required under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, bylaw, order or regulation.

2. Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- As this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice [reference], if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.\*
- If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within:  
28 days of the date of service of the enforcement notice, or within 6 months [12 weeks in the case of a householder appeal] of the date of this notice, whichever period expires earlier.\*
- As this is a decision to refuse planning permission for a minor commercial application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.\*
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.\*
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.  
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

\* some of the above may not apply to this application

3. If permission to develop land is refused whether by the local planning authority or by the Secretary of State for the Environment, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council of the county district in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of part IX of the Town and Country Planning Act 1990 and as amended by part III of the Planning and Compensation Act 1991

(a) The statutory requirements are those set out in Section 78 of the Town and Country Planning Act 1990.

**Please Note:**

The designation of addresses, or any changes to existing addresses, must be approved by the Council. Please contact the Corporate Property Data Unit at the Council's Cromer Headquarters in this connection - telephone 01263 516048 /516013 or e-mail : [llpg@north-norfolk.gov.uk](mailto:llpg@north-norfolk.gov.uk)



Neutral Citation Number: [2017] EWHC 3345 (Admin)

Case No: CO/1136/2017

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**PLANNING COURT**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 19 December 2017

Before :

**MARTIN RODGER QC,**  
**(Sitting as a Deputy Judge of the High Court)**

-----  
Between :

**THE QUEEN ON THE APPLICATION OF**  
**NORTH NORFOLK PLANNING WATCH LTD**

**Claimant**

- and -

**NORTH NORFOLK DISTRICT COUNCIL**

**Defendant**

- and -

**(1) ROSS MCINTYRE**

**Interested**

**(2) RACHAEL THROWER**

**Parties**

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**John Pugh-Smith** (instructed by **Greene & Greene**) for the **Claimant**

**Clare Parry** (instructed by **Eastlaw**) for the **Defendant**

Hearing date: 29 November 2017  
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**Approved Judgment**

**Mr Martin Rodger QC :**

1. This is an application for judicial review of a decision of North Norfolk District Council to grant planning permission for the demolition of a house at 8 Wiveton Road, Blakeney, Norfolk, and the erection of a modern replacement on the same site. The decision notice itself was issued on 20 January 2017 and permission to make the application was granted on the papers by Collins J on 24 May 2017.
2. The claimant, North Norfolk Planning Watch Ltd CIC describes itself as a company formed by residents of the Glaven Valley to channel their concerns about the manner in which the Council has handled applications for planning permission for developments within and around the Glaven Valley and Blakeney Conservation Areas and the North Norfolk Coast Area of Outstanding Natural Beauty (“the AONB”).
3. Mrs Barendina Smedley is a director and member of the claimant. She lives at the Old Rectory in Blakeney, a Grade II\* listed building built in 1518 which was sold off by the Church of England in 1925. The house at 8 Wiveton Road which is the subject of these proceedings was built in the same year as a replacement for the Old Rectory and I will refer to it, as the parties have, as the New Rectory. It is a two-storey detached house of conventional design.
4. Planning permission for the demolition of the New Rectory and the erection of a replacement dwelling was granted on 20 January following a resolution of the defendant’s Development Committee taken at a meeting on 19 January. The development was permitted subject to conditions including one which required that prior to their first use on site samples of the facing materials to be used for the external walls and roofs of the replacement dwelling were to be submitted to and approved by the defendant in writing with the development then being constructed in accordance with those approved details. The reason for the condition was to enable the defendant to be satisfied that the materials to be used “will be visually appropriate for the approved development and its surroundings.”
5. On behalf of the claimant Mr Pugh-Smith submitted that the grant of planning permission was unlawful for four reasons. In outline they were:
  - i) That the use of an incorrect application form deprived the Council of the necessary jurisdiction to permit the New Rectory’s demolition.
  - ii) That the Committee had been provided with insufficient information to enable it properly to consider whether the demolition of the New Rectory was justified.
  - iii) That inadequate consideration had been given to the issue of local listing raised by objectors.
  - iv) Finally, that in giving approval to the use of “Corten” steel on the replacement building the defendant had failed to consider the preservation or enhancement of the Conservation Area as required by section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



## **The facts**

6. The village of Blakeney is within the North Norfolk AONB and lies about a mile from the coast. The parish church of St. Nicholas, its adjoining primary school, the Old Rectory and its associated sixteenth century tithe barn (all of which are listed buildings) are situated on the south side of the village within the Blakeney Conservation Area. The New Rectory is a few hundred metres further south and is within the Glaven Valley Conservation Area. The New Rectory is not a listed building.
7. The New Rectory was designed for the rector of Blakeney by a local architect and provided accommodation for the incumbent and his successors from 1925 until the end of 2014. It was then unoccupied until it was offered for sale in May 2015. On 25 February 2016 it was sold to Mr McIntyre and Ms Thrower, the interested parties, who did not move in. On 5 April their architect, Mr Hudson, sought pre-application advice from the defendant with a view to demolition and the construction of a striking modern replacement on the site.
8. As part of the pre-application process the defendant's Conservation and Design Officer, Mr Paul Rhymes, made two visits to the New Rectory. He made a third visit in October, after the interested parties' application for planning permission had been received. On each occasion Mr Rhymes was able to view the building only from the outside.

## *The application and objections*

9. On its website the defendant provides a link to the Planning Portal online application service. The Portal provides a form specifically for use in connection with applications for planning permission which include demolition of an unlisted building in a conservation area. When interested parties made their application for planning permission on 12 October 2016 their architects did not use that form. Instead Mr Hudson used the standard application form provided by the defendant which made no reference to demolition. I will refer to the other differences between the two forms when considering the claimant's first ground.
10. The application was submitted electronically and was accompanied by a design and access statement prepared by the architects and an ecology report prepared by Wild Frontier Ecology Ltd, also filed electronically. The form of the proposed dwelling was said to resemble a barn on two-storeys, occupying the footprint of the New Rectory, but featuring an entrance tower. The roof and walls of the barn element are to be of Corten steel to provide "a contemporary interpretation of terracotta roof and red brick wall tones of North Norfolk."
11. Historic England ("HE") was consulted on the proposal by the defendant. On 28 November it responded stating that it did not wish to oppose the application in principle, being satisfied that there was no strong visual link between the proposed new building and the listed buildings nearby. Nevertheless HE's inspector suggested that "the Council should still give careful consideration if the proposed use of materials somewhat alien to the area (especially Corten Steel) on a large scale for the new building is appropriate to its setting."

12. Although submitted on 12 October the application did not come to the attention of Mrs Smedley or other local residents until early December 2016. On 7 December Mrs Smedley wrote to the defendant raising objections. She referred to the impact which the demolition proposal would have on the listed buildings and the effect which the intended replacement would have on the designated areas due to its prominence and design.
13. On 8 December Mrs Smedley informed the defendant that she and her husband had commissioned professional research into the New Rectory's architectural history and in particular its relationship with the Old Rectory. She asked that any decision on the application be postponed to enable the product of that research to be properly considered.
14. By 14 December the defendant's planning officers had prepared a report which recommended approval, but in view of the number of local objections the application was called in for consideration by the Development Committee, before whom it was listed for consideration on 19 January.

#### *The Officer's Report*

15. The officers' report for the meeting of the Committee was published in its final form on 10 January. It was a thorough report running to 14 pages and continued to recommend approval.
16. The report identified the application as being for the erection of a replacement dwelling following the demolition of an existing dwelling and explained that the reason for reference to the Committee was to enable it to consider the impact on settlement character of the proposed new materials. The report described the New Rectory and the proposed replacement in some detail drawing attention to the intended use of Corten steel mesh for the roof and Corten steel panels for the wall finish.
17. Ten letters of objection were summarised in the report. These focussed on the contrast between the New Rectory (variously: harmonious with its neighbours, delightful) and the intended replacement (unsympathetic, unsuitable, obtrusive, overbearing, contemporary and aggressive, and completely out of character). The suggestion of one objector that "the New Rectory should be considered a heritage asset in its own right given its history as a former rectory and forming an important part of the social history" was noted.
18. The report then made reference to the views of Mr Rhymes as Conservation and Design Officer. Because of the criticism made of the report as a whole it is necessary to set out at length how those views were reported to the Committee:

"The existing Rectory has fallen into poor state of repair and whilst offering a degree of local interest and architectural character, the building cannot be considered sacrosanct to change or indeed demolition. The building's position within the conservation area and notably on a key approach to the village makes this a particularly sensitive site. When approaching the Rectory from the south, the building is very

much revealed within the landscape and it is this principal view against the backdrop of the mature trees which makes the site distinctive and the building a rather powerful presence.

Whilst the plot lies in relatively close proximity to both the Grade II\* Old Rectory and the Grade I St Nicholas Church, the interrelationship and site lines between these assets and the development site is somewhat limited. With this in mind, the impact of the development on the setting of those designated heritage assets is relatively minor.

In regards to the design of the replacement dwelling, the concept of a contemporary style building raises no Conservation and Design cause for concern in principle. The overall height, scale and massing of the development is not dissimilar to that of the existing rectory and follows almost the same footprint. The principal concern relates to the buildings elevational treatments and the predominant use of the Corten steel cladding which is clearly not a material grounded within this predominantly vernacular context. The Corten itself is a material that will weather over time and will portray a degree of colour variation and depth. With this in mind, whilst its profile and finish will be a distinct move away from the traditional roof finish, the end result will not necessarily be jarring or clinical in appearance. Furthermore, the use of the coursed flint work beneath the Corten should assist in grounding the building and offering that local connection which might otherwise be missing.

....

By virtue that the application will not harm the significance of the heritage assets, Conservation and Design raise no objection to the application. In the event of the application being approved, appropriate conditions would be attached regarding materials and rain water goods.”

19. The report next drew attention to the observations by HE and specifically to its suggestion that the Council may wish to consider the building as a potential non-designated heritage asset in its own right.
20. Having identified relevant policies and paragraphs from the NPPF, the report then embarked on a lengthy appraisal of the application. Under the heading “design” the use of Corten steel cladding was acknowledged to be a distinctive move away from traditional finishes but “the colour, tone and weathering of the Corten references that of the terracotta roof and red brick wall tones of North Norfolk and is not considered out of place when viewed against the backdrop of mature trees.”
21. A significant portion of the report dealt with the topic of “heritage impact.” Attention was drawn to sections 66(1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Committee was advised that if it considered the

proposed development would harm the setting of a listed building or the character or appearance of a conservation area “it must give that harm considerable importance and weight.” The report noted the historic and ecclesiastical connections between the New Rectory as well as architectural links with the old rectory before explaining:

“However, the building is not identified by the Local Planning Authority as a Non-Designated Heritage Asset (i.e. local list) and the building cannot be considered sacrosanct to change or indeed demolish.”

22. After further consideration of the relationship of the New Rectory with the Old Rectory and the parish church, the views of officers were summarised in the following two paragraphs:

“Whilst there is no overriding Conservation and Design objection to the demolition of, and replacement dwelling, it is acknowledged that these issues are finely balanced given the concerns regarding the appearance of the dwelling and setting of heritage assets. Given the prominent position of this building when approaching from the south from Wiveton and long distance views from the south west, any redevelopment of this site needs to give careful consideration to the impact on adjacent heritage assets. Taking account of the above the demolition and replacement of 8 Wiveton Road is not considered to harm the significance of the Old Rectory or Parish Church of St Nicholas, a view expressed by both the Council’s Conservation and Design Officer and Historic England.

It is therefore considered that the proposal would not result in significant harm being caused to the character and appearance of the Glaven Valley conservation area, other heritage assets (including the Old Rectory and St Nicholas Church) and the wider countryside and as such would accord with the requirements of core strategy policy EN4, EN8 and NPPF (paragraphs 132 and 134). This view is shared by the Council’s Conservation and Design Officer.”

23. The report concluded by stating that “on balance it is considered that the dwelling would not distract from the special qualities of the AONB and would not harm the character and appearance of the Glaven Valley conservation area or other heritage assets” and recommended approval.

*The site visit, Mr Bradbury’s report and Mr Rhymes’ response*

24. On 10 January 2018 Mrs Smedley wrote a lengthy letter of objection addressed “Dear Councillors”. I take this to be the letter referred to in the minutes of the Committee meeting as having been received directly by its members. In it she anticipated receipt of the report of her architectural historian and informed the Committee that it would demonstrate that the New Rectory made an important contribution in its own right to Blakeney’s distinctive architectural character, and should therefore be retained. She

also attached a detailed critique of the proposal and of the Design and Access Statement which ran to 19 pages prepared by a planning consultant, referring to each of the relevant policy considerations.

25. Armed with the officers' report and the detailed objections, members of the Committee visited the site on 12 January and inspected the New Rectory both internally and externally. Watching from her home, Mrs Smedley was able to observe the members of the Committee walking around the building before entering and remaining inside for several minutes.
26. In its response of 12 December HE had been untroubled by the effect the proposal might have on the Old Rectory or the parish church, but shortly before the meeting two other heritage bodies intervened in support of the retention of the New Rectory on account of its own intrinsic merits. On 10 January Save Britain's Heritage ("Save") expressed the view to the defendant that the New Rectory made a positive contribution to the conservation area and should be retained and brought back into beneficial use rather than being demolished. On the following day the 20<sup>th</sup> Century Society ("C20") wrote referring to the New Rectory as a "non-designated heritage asset" whose loss should be resisted because of the harm that would cause to the setting of the Old Rectory and the parish church. It advocated sympathetic refurbishment and suggested that no adequate reason had been given to doubt that the building remained fit for its original purpose. The Society also criticised the design and materials intended to be used in the proposed replacement, suggesting in particular that concerns had been raised over the use of Corten steel in coastal locations which might have an impact on the long term appearance of the new building.
27. At 4.33 am on the morning on 16 January Mrs Smedley emailed the report of her architectural historian, Mr Bradbury, to the planning officer, Ms Smith. The report runs to 50 pages, providing information about the work of the local architect of the New Rectory, putting the building in its historical and ecclesiastical context, and describing it as a noteworthy and well-preserved example of an interwar rectory which made a contribution to the setting of the adjacent listed buildings.
28. On receiving the report Ms Smith described it as "a lot of information rather late in the day." In an email to Mr Rhymes, Ms Smith asked him to consider whether the New Rectory should be considered for local listing. She observed that if there was anything in Mr Bradbury's report which raised a doubt "we may need to pull the application to fully review this new information." On the other hand if officers were confident that the building did not merit consideration for local listing "that is a view we can make on the day at Committee."
29. At 10.40 the same morning, 16 January, Mr Rhymes informed Ms Smith that he had read Mr Bradbury's report and "can't see that the contents of this latest appraisal really added anything to our understanding of the site or change our assessment of the application." He considered that "it is border-line whether the building is locally listable" but remained of the view that the assessment in his original report to the Committee had considered all the main issues and that the assessment it contained was balanced and fair in its conclusion. All that was required, he thought, was for the Committee to be updated on the additional information concerning the architects and the historic connection between the old and new rectories.

30. In response to Mr Rhymes comments Ms Smith drafted the outline of a reasoned response to Mr Bradbury's report. She suggested that this be turned into a formal comment from Mr Rhymes, which should appear on the defendant's website to demonstrate that the information had been fully considered.
31. Mr Rhymes duly prepared a memorandum in email form in which he considered the New Rectory as a subject for local listing. The email was circulated at the end of the afternoon on 18 January and is believed to have appeared on the Council's website at the same time. In it Mr Rhymes assessed the information provided by Mr Bradbury concerning the architects responsible for the design of the New Rectory and considered the contribution which the building made to the setting and historic appreciation of the three listed buildings. His memorandum went on:

“In terms of the building's status, it should be clarified that 8 Wiveton Road is not a designated heritage asset, nor it is a non-designated heritage asset. Having carried out an initial assessment against the Council's adopted Local Listing Criteria, [I] have come to the conclusion that the building is not worthy of inclusion onto the North Norfolk local list.”
32. Mr Rhymes then listed the 9 criteria which were taken into account in considering the suitability of a building for inclusion in the local list. He described the New Rectory as not a good example of a regional or local style, as portraying limited intrinsic design value and as being of modest architecture. Its relationship to the neighbouring properties was limited to filtered views from the Old Rectory and long distance glimpses of the church. He acknowledged the historic association of the building with the neighbouring listed buildings and the local connections of the architects but pointed out that those architects were not well known or renowned. The building itself was “built to be functional and constructed on a budget”, with limited rarity or landscape value, and despite having a prominent position on Wiveton Road it was not a landmark structure. Some further details of the process of local listing were then provided before Mr Rhymes concluded that despite the limited historic and social interest created by the ecclesiastical relationship with the nearby listed buildings and local architectural links his initial recommendation remained unchanged.
33. Although Mr Rhymes' additional observations were published on the Council's website they were not drawn specifically to the objectors' attention and Mr Smedley was unaware of them when he was permitted to address the Development Committee at its meeting on 19 January.

#### *The meeting*

34. The minutes of the meeting record that the Committee had been “heavily lobbied” on the application. Mr Smedley and Mr Hudson, the applicant's architect, made short presentations followed by a presentation by Ms Medler, the development management team leader. She is recorded in the minutes as dealing with issues raised at the site inspection by members of the Committee and as reporting that a further 30 letters of objection had been received. These were summarised and it was said that they raised similar points to those already dealt with in the officers' report. The fact that objections had been received from the C20 and Save was also reported.

35. The minutes then recorded that an architectural appraisal had been submitted by one of the objectors. The minuted reference to this appraisal (Mr Bradbury’s report) was as follows:

“The Development Management Team Leader reported that the Conservation and Design Officer had been re-consulted on further information which had been received. The dwelling was not a designated heritage asset nor locally listed. An assessment had been carried out against local listing criteria and the dwelling was not considered to be worthy of local listing. The Conservation and Design Officer had no objection to this application.”

Councillor Ward, who had called the application in, then referred to information that had come forward relating to the social and historical importance of the building (which I take to be a further reference to Mr Bradbury’s report).

36. The discussion which followed appears to have centred on the design of the replacement building and in particular on the suitability of the proposed materials. Specific concern was raised by one councillor who asked how the steel cladding would weather. In response Ms Medler explained that the Corten steel finish had a matt appearance, terracotta red in colour, which was not dissimilar to the existing roof materials and that it weathered very well.
37. Following the discussion the Committee resolved unanimously that the application be approved.

### **Legal principles**

38. There was no disagreement on the relevant legal principles between Mr Pugh-Smith and Miss Parry, who appeared on behalf of the defendant.
39. For the principles applicable to challenges based on the adequacy of officers’ reports to a planning committee I was referred to the summary at paragraphs [90] to [98] of the decision of Holgate J in *The Queen (Luton Borough Council) v Central Bedfordshire Council* [2014] EWHC 4325. The following propositions taken from that summary were emphasised:

- i) In the absence of contrary evidence, it is reasonable to infer that members of a planning committee followed the reasoning of the case officer’s report, particularly where its recommendation was adopted.
- ii) An officer’s report is to be read as a whole and is not to be subjected to the same exegesis that might be appropriate to the interpretation of a statute. Thus:

“An application for judicial review based on criticisms of the planning officer’s report will not normally begin to merit consideration unless the overall effect of the report significantly misleads the committee about material matters which thereafter

are left uncorrected at the meeting of the planning committee before the relevant decision is taken.”

(Oxton Farms, Samuel Smiths Old Brewery (Tadcaster) v Selby District Council, 1997 WL1106106, per Judge LJ).

iii) A planning officer’s report is addressed to an informed readership with substantial local and background knowledge. It is therefore unnecessary for the report to set out in great detail background material with which the committee members will be familiar. It is part of the officer’s expert function to make an assessment of how much information needs to be included in a report in order to avoid burdening a busy committee with excessive and unnecessary detail.

40. Mr Pugh-Smith supplemented these propositions by referring to observations on the duty of a planning officer by Pill LJ in *R (Lowther) v Durham County Council* [2001] EWCA Civ 81. at [9]:

“That duty is broader than a duty not actively to mislead. It includes a positive duty to provide sufficient information and guidance to enable the members to reach a decision applying the relevant statutory criteria. In the end it is a matter of fact and degree for the members. However where, as in the present case, the decision-making body is required to apply a legal test to the facts as the members find them, it includes a duty to provide guidance as to what legal test is appropriate.”

41. I was also referred to the very recent decision of the Court of Appeal in *St Modwen Developments Ltd v Secretary of State for Communities and Local Government* [2017] EWCA Civ 1643 in which, at [6], Lindblom LJ referred to the “seven familiar principles” that would guide the court in handling a challenge to a decision of the Secretary of State to refuse planning permission. Amongst those principles, which the Court of Appeal restated and reinforced was the following, at paragraph 6(3):

“The weight to be attached to any material consideration and all matters of planning judgment are within the exclusive jurisdiction of the decision-maker. They are not for the court. A local planning authority determining an application for planning permission is free, “provided that it does not lapse into *Wednesbury* irrationality” to give material considerations “whatever weight [it] thinks fit or no weight at all” (see the speech of Lord Hoffmann in *Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759, at p.780F-H). And, essentially for that reason, an application under section 288 of the 1990 Act does not afford an opportunity for a review of the planning merits of an inspector’s decision...”

42. Finally, both parties drew my attention to a passage in the decision of Sullivan J in *R v Mendip DC ex p. Fabre* (2000) 80 P&CR 500, 515 in which he said this about the treatment by officers of information received at a late stage before a planning committee meeting is due to take place:



“The solicitor’s letter was sent to the Council. It is inevitable that this will in many cases lead in turn to the need for some further input from the responsible officer. That input may be given orally on the day, or it may be more helpful to set it out in writing a little time in advance. It is important that members are not “bounced” with new information which they do not have time to digest. But I am satisfied that this is not the case here. The update report was available on the 23<sup>rd</sup>. The meeting did not take place until 27. It must have been far better to provide the additional information in writing a little time in advance of the meeting than to deploy it orally at the meeting.”

## **Policy**

43. The Committee was required by section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine the application in accordance with any applicable development plan policy unless material considerations indicated otherwise. The only relevant policy to which I was referred was Policy EN8 of the defendant’s Core Strategy, which requires that in a Conservation Area:

“Proposals involving the demolition of non-listed buildings will be assessed against the contribution to the architectural or historic interest of the area made by that building. Buildings which make a positive contribution to the character or appearance of an area should be retained. Where a building makes little contribution to the area, consent for demolition will be given provided that, in appropriate cases, there are acceptable and detailed plans for any redevelopment or after use.”

44. Policy EN8 of the Core Strategy also included a commitment to the preparation of a local list of buildings of special architectural or historic interest. Although local listing is not a specific statutory process, local planning authorities are encouraged by the NPPF to give consideration to it.
45. The paragraphs of the National Planning Policy Framework concerning heritage assets were also agreed to be relevant to this challenge. “Heritage asset” is an expression defined in the NPPF and, so far as relevant, means “a building ...identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing).” A “designated heritage asset” includes a listed building or a Conservation Area. The New Rectory is not a designated heritage asset, but the Glaven Valley and Blakeney Conservation Areas are.
46. A local planning authority determining a planning application should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation (paragraph 113). Great weight should be given to the conservation of a designated heritage asset when considering the impact of a proposed development on that asset (paragraph 114). A proposed development which will lead to substantial harm to, or significant loss of

significance of, a designated heritage asset should be refused consent unless it can be demonstrated that the substantial loss or harm is necessary to achieve substantial public benefit outweighing that loss or harm (paragraph 133). Where less than substantial harm will be caused by a development proposal, it should be weighed against the public benefit of the proposal, including securing the optimum viable use of the asset (paragraph 134).

47. Mr Pugh-Smith drew my attention in particular to paragraph 135 which provides as follows:

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

48. Paragraph 138 is also material. It notes that not all elements of a Conservation Area will necessarily contribute to its significance, and recommended that “loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area” should be treated either as substantial harm under paragraph 133, or as less than substantial harm under paragraph 134.

## **Ground 1**

49. The Enterprise and Regulatory Reform Act 2013 removed the separate requirement to obtain conservation area consent but (with exceptions not relevant to this case) introduced a requirement to obtain planning permission for the demolition of an unlisted building in a conservation area.
50. Mr Pugh-Smith submitted that the defendant had lacked jurisdiction to permit the demolition of the New Rectory because the application submitted by Mr Hudson had used the wrong form. Before examining that submission it is convenient to refer to the statutory basis of the jurisdiction to grant planning permission in the Town and Country Planning Act 1990 (“the 1990 Act”).
51. Section 58 of the 1990 Act provides:

58 Granting of planning permission: general.

(1) Planning permission may be granted—

...;

(b) by the local planning authority (or, in the cases provided in this Part, by the Secretary of State) on application to the authority in accordance with a development order;

...

(3) This section is without prejudice to any other provisions of this Act providing for the granting of permission.

52. Section 62(1)-(2) of the 1990 Act provide that a development order may make provision as to applications for planning permission including provision as to the form in which the application must be made, the particulars to be included in the application and the documents or other materials which are to accompany the application.
53. The relevant Order is the Town and Country Planning (Development Management Procedure) (England) Order 2015, in which Article 7 lays down the following general requirements for applications:
- “7.—(1) Subject to paragraphs (3) to (5), an application for planning permission must—
- (a) be made in writing to the local planning authority on a form published by the Secretary of State (or a form to substantially the same effect);
- (b) include the particulars specified or referred to in the form;
- (c) [irrelevant exceptions] ... be accompanied, whether electronically or otherwise, by—
- (i) a plan which identifies the land to which the application relates;
- (ii) any other plans, drawings and information necessary to describe the development which is the subject of the application;
- ....”
54. The standard form of application published on the Planning Portal and made available by the defendant *via* its own website contains no indication that its use is restricted to a particular type of application, but it does emphasise that the accompanying guidance notes should be read before completing the document. The notes on the website warn that “you must apply for the correct consent, otherwise your application will be invalid.” By navigating deeper into the Portal a list of consent types can be accessed; this identifies five alternative types, one of which is planning permission for relevant demolition in a conservation area. Further navigation leads to information stating that “the application for planning permission for relevant demolition in a conservation area should be used for proposals which involve substantial demolition of any unlisted building or structure in a conservation area.”
55. The “enhanced” application form (as Mr Pugh-Smith described it) includes a box, missing from the standard form, requiring the applicant to provide “a description of the proposal, including details of the proposed demolition.” An applicant seeking guidance on the amount of detail required could refer to notes on a separate page which ask that the proposal be described “accurately and concisely, including the extent and degree of demolition.” How concise the description may permissibly be is apparent from a number of examples given; these suggest “demolition of existing dwelling and erection of five, two storey, three bed houses” or “part demolition of existing boundary wall ...” as acceptable.

56. The only other significant difference between the standard form and the enhanced form is the inclusion in the latter of a requirement to provide an explanation for the proposed demolition work. The form asks: “why is it necessary to demolish all or part of the building(s) or structures?” The accompanying notes elaborate on this requirement:

“Please provide a reasoned justification for the proposed works. In order for the authority to assess an application for demolition properly, it may be necessary to supply additional information such as a structural survey or other analysis of the character or appearance of the area or building. If you need more information please contact your planning authority.”

57. Returning to the standard form, this is to be signed by the applicant after a statement that “I/we apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information.” The form makes no reference to demolition, or to conservation areas.

58. The form completed by Mr Hudson described the proposal for which permission was sought as: “demolition of existing dwelling and construction of replacement dwelling.” It correctly identified the fact that pre-application advice had been sought and referred the reader to the Design and Access Statement for details of that advice.

59. The Design and Access Statement which accompanied the application referred to the fact that the site was in the Glaven Valley Conservation Area and included the following information about the New Rectory, provided under the heading “Context”:

“There is nothing distinctive about the building externally. The internal layout no longer reflects the needs of current living styles and requires upgrading to current energy standards. In the Full Blakeney Parish Council Meeting dated 6 May 2014, it was noted that the property was not fit for occupation due to fuel poverty and is in a poor state of repair.”

60. The ecology report which was filed with the application focussed on the impact of the proposal on the local bat population and, as part of its assessment of the need for a licence to disturb their roosting, considered the alternatives to demolition. One of these was to extend the existing building, as to which the report said this:

“The house has been extended previously and theoretically it could be extended again, plus the interior refurbished etc. However, given the age, materials, low aesthetic value and condition of the original house, this option is economically impractical and unrealistic.”

### *Submissions*

61. In the claimant’s original grounds of application the first ground, (the use of the wrong form), was presented largely as an introduction to the second ground (that as a result the defendant had had insufficient information to determine the application) and it was suggested in only the briefest outline that, in law, the use of the correct form

was essential to confer jurisdiction on the defendant and that the planning permission for demolition was therefore a nullity. In his skeleton argument and in his oral submissions Mr Pugh-Smith nevertheless made clear his position that, no matter what information had been provided in support of the application, the use of the wrong form was sufficient in itself to deprive the defendant of jurisdiction to grant planning permission.

62. The key difference between the forms was the requirement to explain why it is said to be necessary to demolish the building. Mr Pugh-Smith pointed out that it remains a criminal offence under section 196D(1) of the 1990 Act to demolish an unlisted building in a conservation area without the required planning permission. As a matter of jurisdiction the defendant needed to have all relevant materials before it to fulfil both its development management function and its duty as the local government regulator of heritage resources. In order to comply with Article 7 of the 2015 Order an application for planning permission had to be submitted on “a form published by the Secretary of State” which meant *the* form published for the purpose of the particular type of application which was being made. The standard form was not compliant, nor was it “substantially to the same effect” as the required form, because it did not address the specific questions concerning the nature and extent of the intended demolition and the need for it.
63. Moreover, Mr Pugh-Smith submitted, the claimant and local residents had a procedural legitimate expectation, based on the material obtained through the defendant’s website, that any application for demolition in the conservation area would be made using the correct form.
64. On behalf of the defendant Miss Parry submitted that the use of the standard application form was all that was required to confer jurisdiction since it met the requirements of article 7 of the 2015 Order that an application be made in writing to the local planning authority on a form published by the Secretary of State, or on a form to substantially the same effect. The standard form was such a form and was therefore sufficient; alternatively, completed as it had been by Mr Hudson, the standard form was substantially to the same effect as the “enhanced” form.

### *Discussion*

65. I do not accept Miss Parry’s submission that the article 7 requirement to apply for planning permission on a form published by the Secretary of State is satisfied by the use of a form which is not designed for the type of application being made, in circumstances where different forms are published for different types of application. I agree with Mr Pugh-Smith’s submission that “a form” does not mean any form, but means the form designed for the purpose for which it is being used. Article 7(1) requires not only the use of a published form but also the provision of the particulars specified or referred to in the form and any other particulars required to describe the development which is the subject of the application. Where a form is published which requires specific information concerning an application of a particular type, such as for the demolition of an unlisted building in a conservation area, the information and particulars required by article 7(1) are as specified in that form and not in some different form designed for an application of a different type.

66. On the other hand I do not accept Mr Pugh-Smith's submission that a form cannot be to the same effect as the published form unless it makes provision, in different language or format perhaps, for the same information as is required by the specific form designed to be used for the type of application in question. Whether one form is to substantially the same effect as another invites a comparison between the effect of the prescribed form and the effect of the form used, and a consideration of the extent of the differences. In making that comparison it must be relevant that the purpose of the form is to convey information. The appropriate comparison must be between the form received by the local planning authority, containing the information which it contains, and the correct published form. Mr Pugh-Smith acknowledged that a form which supplied the required particulars by reference to a separate document, such as a design and access statement, would not be defective. I do not see how that acknowledgement can be reconciled with his submission that the provision of all the information required for a particular type of application, but using an inappropriate form, would deprive the planning authority of jurisdiction to consider the application.
67. Comparing the form completed by Mr Hudson with the enhanced form published on the defendant's website, Mr Hudson's form and its supporting material appear to me to be to the same effect as the enhanced form. Only two relevant differences were relied on in submissions.
68. First, the request for a description of the proposal in Question 3 of the completed form omitted the printed words "including details of the proposed demolition" which appear on the enhanced form. Despite that omission, the description inserted in response to the request so closely mirrors the concise descriptions given as model examples in the guidance notes on the defendant's website (see para. 49 above), that no objection can be taken to it. Mr Pugh-Smith did not suggest that it was impermissible to limit the description to "demolition of existing dwelling and construction of replacement dwelling."
69. Secondly, Question 9 on the enhanced form, requiring an explanation of the proposed works and why demolition was necessary, has no equivalent on the printed form used by Mr Hudson, but the extracts from the Design and Access Statement and the ecology report supplied with the application (and cited at paras 53 and 54 above) provided a more than sufficient description to meet the purpose explained in the guidance note. The guidance required no more than "a reasoned justification for the proposed works." It is true that the notes warned that the authority may require an applicant to supply additional information such as a structural survey or other analysis of the character or appearance of the area or building, but that was clearly intended to be at a second stage, in response to the material supplied with the form, rather than being a requirement of the form itself.
70. The material supplied by Mr Hudson explained that the New Rectory was undistinguished, old-fashioned, and energy-inefficient, as well as being in a poor state of repair. Those were the applicants reasons for considering it necessary to demolish the New Rectory and in my judgment they more than satisfied the requirements of Question 9, despite being included in the supporting documents (and in this regard I bear in mind that the proposal had been the subject of pre-application advice from a named officer who had already had an opportunity to discuss the proposal with Mr Hudson). It was then for the defendant to consider what it made of the applicants' justification. Given what they had been told it is inconceivable that the planning

officers could properly have rejected the application as failing to provide the particulars demanded by article 7(1) and their own guidance.

71. I am therefore quite satisfied that the form completed by Mr Hudson was a form to the same effect as the form required by the defendant (and by article 7) where a proposal involved demolition of an unlisted building in a conservation area. Any procedural legitimate expectation which may have existed in the mind of someone who had carefully picked their way through the relevant websites to discover the appropriate forms and their associated notes was therefore satisfied. That is enough to dispose of the first ground of challenge.
72. For that reason it is unnecessary for me to consider Mr Pugh-Smith's submission that the effect of using the standard, rather than the enhanced, form (or one substantially to the same effect) was to deprive the local planning authority of jurisdiction to grant planning permission. Mr Pugh-Smith emphasised the word "must" in article 7(1) as indicating that the use of the relevant form was mandatory, but the question whether a failure to take a particular procedural step is fatal to the jurisdiction of a decision-maker does not begin and end with the language in which that step is described. The modern approach requires consideration of a much broader question, namely "whether it was a purpose of the legislation that an act done in breach of the provision should be invalid" (*Project Blue Sky Inc v Australian Broadcasting Authority* (1998) 194 CLR 355 at paragraph 93; referred to with approval by Lord Steyn in *R v Soneji* [2006] 1 AC 340, at paragraph [21], and more recently by Sir Terence Etherton C. (as he then was) in *Natt v Osman* [2014] EWCA Civ 1520 at paragraphs [24]-[29]). The application before me was not argued by reference to that question and the relevant authorities were not referred to. I therefore say no more about them.

## **Ground 2**

73. The claimant's second ground, to which many of Mr Pugh-Smith's submissions on the first ground were preparatory, was that the information supplied to the Committee was insufficient to justify the case for demolition of the New Rectory. This deficiency was traced back to the use of the standard form with the result that the "reasoned justification" for demolition of the New Rectory required by the notes accompanying the enhanced form was missing. Neither the officers nor the Committee was provided with all the necessary information to enable an informed and balanced judgment to be made as required by paragraph 135 of the NPPF. It is said that the Committee therefore erred in law by proceeding to make a decision on that basis.

### *Submissions*

74. In support of this ground Mr Pugh-Smith took particular issue with the statement concerning the condition of the New Rectory in the consultation response from Mr Rhymes, the defendant's Conservation and Design Officer, recorded in the officers' report. Mr Rhymes referred to the building as "having fallen into disrepair" but there was no "empirical evidence", such as a surveyor's report, in support of that assessment. Mr Rhymes had not inspected the building internally, had not identified specific defects, and had not explained why it merited demolition. This was consistent with the officers' acceptance of the application on the wrong form and their lack of attention to the need for a reasoned justification for the proposed demolition.

75. The information supplied in the Design and Access Statement, referred to in paragraph 54 above, was also criticised as self-serving and misleading. The Parish Council had indeed been informed by the Diocesan Surveyor in May 2014 that the property was not fit for occupation due to fuel poverty and was in a poor state of repair, but the Surveyor had explained that the Diocese intended to build another smaller rectory and also suggested that either the Parish Council or a local housing association might be able to turn the New Rectory into affordable housing for local people. He had not suggested that it was fit only to be demolished and when the building was offered for sale it was described by the selling agents as offering scope for updating and refurbishment.
76. Mrs Smedley estimated in her first letter of objection sent to the defendant on 7 December that expenditure of only about £50,000 would be required to refurbish the New Rectory, but Mr Rhymes had made no assessment of his own and in his witness statement he referred to the defects he had observed on his external inspections (missing, cracked and damaged tiles; stained render and faulty rainwater goods) as “largely cosmetic ... short-term repair issues” and the building as a whole as “in a poor condition [but] not beyond meaningful repair.”
77. Mr Pugh-Smith suggested (without much enthusiasm) that the Committee should have been invited by officers to consider whether the condition of the New Rectory was due to “deliberate damage to or neglect of a heritage asset in the hope of making consent or permission easier to gain.” Planning Policy Guidance would then have required that the deteriorated state of the building be disregarded. In the view of the chronology of a building vacated as uneconomic to heat, then left unoccupied by the Church for 14 months before being sold to purchasers who almost immediately embarked on the process of seeking planning permission, there were no credible grounds on which a case could be made for assuming it to be in a better condition than in reality.
78. The result of the inadequate advice of officers, and failure to challenge incomplete information provided by the applicants, was that the Committee was unable to consider the benefit, in the public interest, in retaining the New Rectory, or to weigh that benefit against the public benefits of the proposal. It was clear from the officers’ report that the recommendation had been “finely balanced” (see para. 22 above) and it therefore could not be said that the report, or the decision to grant planning permission, would have been the same if more thorough consideration had been given to the true condition of the New rectory and its capacity for retention and refurbishment.

### *Discussion*

79. I cannot accept Mr Pugh-Smith’s submissions. In my judgment the Committee was appropriately informed by the officers’ report concerning the condition of the New Rectory. More importantly, members were in a position to appreciate that condition for themselves at their own site visit and to determine what contribution the non-listed building made to the setting of the listed buildings and to the character and appearance of the Conservation Area as a whole. Armed with that material it was for them to undertake the balanced assessment required.



80. Mr Pugh-Smith and Mrs Smedley in her letters of objection and her evidence made much of the absence of any assessment by the officers or the applicants of whether the New Rectory was beyond economic repair. I am satisfied that no such assessment was necessary. The building was not a designated heritage asset and paragraphs 132, 133 and 134 of the NPPF did not apply directly to the proposal to demolish it. It was not necessary for the case for demolition to demonstrate that the building could no longer be used, or that the cost of work required to cure the problems identified by the Diocesan Surveyor were prohibitive.
81. The NPPF policies were relevant to the proposal only to the extent that the demolition of the New Rectory might cause harm to the Old Rectory, or to the church, the school or the tithe barn. What made the assessment of whether to approve the proposal “finely balanced” was not the quality of the New Rectory itself, but the concerns regarding the appearance of the replacement dwelling and the impact on the setting of the designated heritage assets. The officers’ report considered that question in terms which have not been criticised, and accurately reported the views of HE and Mr Rhymes that there would be no adverse impact.
82. The fact that the building had been neglected and unsympathetically improved before 2014 was acknowledged by Mrs Smedley in her own letter of opposition. That it had been vacated on the grounds that it was too expensive to heat (“fuel poverty”) and had then remained unoccupied for an extended period was also not in dispute. It was no part of the interested parties’ case that the New Rectory could not be made habitable. On the contrary, the ecology report had assessed that option and had confirmed that “theoretically it could be extended again, plus the interior refurbished.” The poor quality of the structure was said to make such an approach “economically impractical and unrealistic”. The design and access statement did not seek to justify the project on the grounds that the building was derelict, but said that it “requires upgrading.”
83. I reject the complaint that the application presented the views expressed at the 2014 Parish Council meeting in a misleading way. The intention of the Diocese to replace the building was irrelevant to the relevant qualities of the New Rectory itself, and the possibility that it might be used by the Parish Council or a housing association for affordable housing was speculative; had there been any substance in the suggestion, at least as far as the Parish Council was concerned, it could have been expected to make the point in response to the consultation.
84. The fact that the members of the Committee were able to inspect was said by Mr Pugh-Smith to be incapable of curing the inadequacies of the advice they had received, but I disagree. The officers advised, on the basis of Mr Rhymes’ inspections, that the building was in a poor state of repair; it is not suggested that that was not Mr Rhymes’ true view, and the description in his witness statement of what he observed is not at odds with that view. Alerted to Mr Rhymes’ assessment, the members were able to form their own opinion and to take it into account in considering the contribution which the New Rectory made to the Conservation Area and the harm its loss would cause, as they were required to do by Core Strategy EN8. The officers’ report specifically counterbalanced the building’s condition with the “degree of local interest and architectural character” it offered, and the suggestion that the Committee were significantly misled, whether by the report as a whole or specific aspects of it, is unsustainable.

85. I therefore reject ground 2.

### **Ground 3**

86. The claimant's third ground focussed on the consideration given by the defendant to the possibility of adding the New Rectory to the "local list", which would have conferred on it the status of a non-designated heritage asset to which paragraph 135 of the NPPF applied. As this ground was developed in his submissions, Mr Pugh-Smith relied on three distinct points:

- i) Whether Mr Rhymes, as Conservation and Design Officer, had the delegated authority to reject the objectors' request for local listing.
- ii) Whether the defendant should have consulted on the request.
- iii) Whether the presentation made by officers at the Committee meeting on the heritage value of the New Rectory was "legally sound".

87. I asked Mr Pugh-Smith to identify the request for local listing on which he relied as the basis of his complaint that such a request had not been properly considered. He referred me to the email sent by Mrs Smedley to the planning officer at 4.33am on 16 January, three days before the Committee met to consider the planning application. That email does not refer to local listing, nor did Mr Bradley's report which was attached to the email, although it provided much information about the building and explained the author's views on its significance. Mr Pugh-Smith submitted that it had nevertheless been treated by officers as a request for local listing, as was apparent from Ms Smith's email to Mr Rhymes on the morning of 16 January referred to in paragraph 27 above. Mr Bradley's report certainly caused officers to give more structured consideration to the possibility of local listing, and to request Mr Rhymes specifically to consider the New Rectory in light of the criteria for that designation.

88. Local listing had also been raised by HE on 12 December when its inspector had suggested to officers that, although he was satisfied that the proposed development represented no risk to the setting of the designated heritage assets, "the Council may wish to consider the building as a potential non-designated heritage asset in its own right." A more positive case for extending protection to the building was made by Save in its contribution on 10 January, while C20 referred to the New Rectory as a non-designated heritage asset.

#### *The authority point*

89. Mr Pugh-Smith's submissions under ground 3 must therefore be examined against the background that the issue of local listing arose as part of the officers' consideration of a planning application, rather than in response to a distinct request for listing in its own right. That possibility had been anticipated by the defendant's Cabinet in a resolution in 2011 which laid down a procedure for local listing of buildings of special architectural or historic interest and identified 9 criteria which ought to be considered. One route to entry in the local list recognised by the Cabinet was where the assessment of a planning application led to the conclusion that a building should be included. It was resolved that inclusion in the local list would have to be ratified in each case by the Cabinet.

90. All statutory functions of the Council acting as the local planning authority were the responsibility of the Head of Planning. Mr Rhymes' delegated authority included considering planning applications and making recommendations on design acceptability and conservation best practice. It made no specific mention of a role in relation to local listing. That was the basis of Mr Pugh-Smith's submission that Mr Rhymes had no authority "in effect, to reject an application for local listing." Although his function of assessing the heritage aspects of a planning application overlapped with the determination of local listing issues, the two processes were separate and distinct. It was submitted that there should, at least, have been some positive endorsement of Mr Rhymes' assessment by the Head of Planning to render the defendant's disposal of the issue lawful.
91. I do not accept that the legality of the defendant's approach to local listing of the New Rectory was undermined by lack of appropriate authority, largely for the reasons given by Miss Parry in her submissions. The issue arose as one aspect of the determination of an application for planning permission, and Mr Rhymes' role in that determination was recognised in his own job description and delegation. Part of his function was to assess the merits of the building for which consent for demolition was sought and to consider the effect which its loss would have on the Conservation Area. If, as a result of that assessment, he had concluded that the building merited inclusion in the local list, a decision to add it to the list would have required Cabinet ratification. But he reached the opposite conclusion and, having undertaken an assessment against the local listing criteria, he explained in his consultation response and in his subsequent memorandum on the defendant's website why he had done so. I do not accept that he was engaged in two separate procedures, giving advice on the heritage aspects of the planning application, and determining an application for local listing. In substance and in form there was a single application, for planning permission, which raised the same considerations as were material to local listing and in respect of which Mr Rhymes was properly authorised to give advice to the Committee.

*The further consultation point*

92. Mr Pugh-Smith drew attention to the fact that the defendant's local listing criteria which had been approved by the Cabinet in 2001 did not appear on its own website at the time of the application for permission to demolish the New Rectory. That was contrary to the defendant's advertised commitment to provide clear information to enable the public to make informed choices when replying to its consultations. The same commitment (contained in its Statement of Community Involvement (SCI) of January 2016) spoke of re-advertising and re-consulting the public where significant amendments were made to a proposal which might have an adverse effect.
93. It was also submitted that the publication of Mr Rhymes' memorandum on the defendant's website on the day before the meeting had been unfair to the objectors, who were unable to challenge the accuracy of its contents. The Committee itself had been "bounced" into a decision in the manner disapproved of in *Fabre*, and was given no proper opportunity to assess the significance of the information provided in Mr Bradbury's report or to consider the issue of local listing in light of it. Had the objectors been properly consulted on the applicability of the local listing criteria to the New Rectory, or had the Committee been given fuller and more timely advice, the outcome of the application may have been different, bearing in mind that Mr Rhymes

had advised his colleagues that “it is borderline whether the building is locally listable”.

94. Miss Parry submitted that the relevant Planning Practice Guidance, and the defendant’s SCI, contemplated a second round of consultation only where changes were made to a proposal by an applicant, and then only when those changes were significant. There was no expectation that the submissions of late objections would result in a further period of consultation, and it was a matter of judgment whether something sufficiently important had arisen to make such repeat-consultation appropriate.
95. In this case there was no change to the application itself and officers had given proper consideration to the relevant question when they received Mr Bradbury’s report, namely, whether the information in it raised new issues which had not previously been considered and reported on to the Committee. Mr Rhymes’ advice was that it did not, and his memorandum clearly explained why, taking into account all material considerations. Miss Parry submitted that there were therefore no grounds on which the court could intervene.
96. I do not accept Mr Pugh-Smith’s submission that the appearance of Mr Bradbury’s report was such a game-changer that it was necessary for the defendant again to seek the views of the heritage bodies (HE, Save and C20) on the application. HE had made clear its own conclusion that the proposal did not put the designated heritage assets at risk, and that consideration of the suitability of the New Rectory for inclusion in a local list was a matter on which it did not have a view. The enthusiasm of other bodies for the retention of the building was already on record and while there is much interesting background information in Mr Bradbury’s report, there does not appear to be much new material on the merits of the building itself.
97. It was for the defendant’s officers with relevant expertise, especially Mr Rhymes, to consider whether a further consultation exercise could be expected to yield contributions of value to the Committee’s consideration of the application. Mr Pugh-Smith suggested that officers had already made up their minds in December and were under pressure to meet deadlines for determination of the application, but there is nothing in the material I have seen to justify any inference that proper consideration of Mr Bradbury’s report was blocked by performance pressure. If anything, the contrary impression is created. In their email exchanges on 16 January the officers were open to the possibility that there might be new information in Mr Bradbury’s report which might require that they “pull” the application from the agenda to allow re-consideration. Mr Rhymes’ subsequent memorandum was thorough, and I have no reason to doubt that it was anything other than a conscientious assessment of the limited merits of the building as he saw them. In particular, the fact that his original view did not change on reading Mr Bradbury’s report creates no such doubt.
98. It would have been preferable had Mr Rhymes’ memorandum been published sooner than it was, and brought to the attention of the objectors, but it was responding to material supplied at the eleventh hour and the defendant cannot seriously be criticised for its appearance on the eve of the meeting. Whether the timing of the memorandum caused unfairness to the objectors depends on whether the response it contained was addressing new points which had not already been considered in the officers’ report, or providing new answers to points previously made. Mr Pugh-Smith did not point to

specific examples of any such new material, and I am satisfied that the views of officers, which did not change after the receipt of Mr Bradbury's report, were clear enough to objectors to allow them a proper opportunity to respond effectively at the meeting on 19 January.

99. I therefore accept Miss Parry's submission that the absence of a further round of consultation did not render the decision unlawful or deprive the Committee of material which it ought to have been able to consider.

*The officers' presentation point*

100. The final topic addressed by Mr Pugh-Smith under his third ground focussed on what he described as inadequate briefing which failed to equip the Committee to undertake the balancing exercise required by Core Strategy Policy EN8 and paragraph 135 of the NPPF. The Committee should have been invited to consider whether the New Rectory was a heritage asset in its own right and to weigh the harm which its loss would result in under paragraph 135. They should have considered properly whether it made a positive contribution to the character or appearance of the Conservation Area and been advised that, if it did, it should be retained (EN8).
101. Mr Pugh-Smith pointed out that the defendant's officers had been alerted in early December to the objectors' intention to commission an architectural appraisal of the New Rectory, and to HE's suggestion that the defendant might want to do the same. Why, he asked rhetorically, had no assessment been made against the local listing criteria at that time, so that a proper appraisal could have been included in the officers' written report, published on 10 January? His answer led back to the objectors' overarching complaint that officers had never given proper consideration to the quality of the New Rectory or the benefits of its retention, and as a result had misled or failed properly to brief the Committee. The minutes of the meeting also suggested that the Committee was informed only of the existence of Mr Bradbury's report and not properly briefed on its contents. As a result of this succession of errors the presentation as a whole was "legally unsound."
102. In my judgment the minutes of the meeting do not support Mr Pugh-Smith's submission that the Committee was inadequately briefed on developments since the officers' report, or that it was "bounced" or ambushed by late information. *Fabre* provides no support for the proposition that an oral report can never be used to supplement an officers' report, and whether it is appropriate will depend on the nature and extent of the new information; the exchanges between officers on 16 January show that they had this well in mind.
103. The officer's report had explained clearly that the New Rectory had not been identified as a non-designated heritage asset but specifically drew the attention of the Committee to the suggestion by HE that they may wish to consider the building as such an asset in its own right. The members of the Committee can be taken to have understood the implications of that suggestion and to have had in mind the possibility of local listing. The members had also received Mrs Smedley's letter of 10 January and the detailed critique of the application by her planning consultant, including extensive reference to architectural history and significance of the building which had clearly been written with the benefit of a draft of Mr Bradbury's report. They had therefore been well briefed on the rival views of the merits of the building when they

undertook their site visit on 12 January and were not coming to the subject cold when they received the oral report of Ms Medler at the meeting.

104. Consistent with the legal principles agreed between the parties, it was for officers to assess the amount of detail which should be laid before the Committee to supplement the report they had already received, the heavy lobbying referred to by the Chairman in opening the discussion and the views they had already been able to form on their site visit. The arrival of 30 additional letters of objection was reported, and it was recorded that in addition to points previously made these also suggested that the New Rectory was of local architectural importance so that the proposal was contrary to Policy EN8. The objections of C20 and Save and Mr Bradbury's appraisal were also referred to. What precisely was said about those contributions is not recorded in the minutes, but it was apparent that they were identified as adverse to the proposal. More importantly from the Committee's perspective was the fact that officers had gone back to Mr Rhymes to consult him on the new information received and his conclusion had been that the building was not worthy of local listing.
105. I am satisfied that none of the limbs of ground 3 is sustainable. The members of the Committee were well able to make a properly informed determination of the proposal, to disagree if they wished with the officers' view that the building was not of such merit as to require to be retained, and to reach the balanced judgment required by EN8 and by NPPF paragraph 135 (had they taken the view it should be regarded as a non-designated heritage asset).

#### **Ground 4**

106. In ground 4 attention is switched away from the merits of the New Rectory and the consideration given to its retention, and on to the consideration given by officers to the use of unorthodox materials in the design of the replacement dwelling.
107. Section 72(1) of the Listed Building and Conservation Areas Act 1990 imposes a general duty on a local planning authority in the exercise of its planning functions in respect of a conservation area requiring that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area." Policy EN8 imposed a similar requirement.
108. The claimant asserted that the Committee had therefore been under a duty to weigh whether the positive contribution made by the New Rectory to the Conservation Area would be equalled or bettered by the proposed replacement. It was said that it had failed to do so, or alternatively had failed to pay sufficient regard to the immediate and long-term visual acceptability of the design and choice of materials for the replacement. The specific focus of this complaint was the intended use of "Cor-Ten" steel, the trademarked name for a range of weathered steel products manufactured in the United States.
109. Attention had been drawn to the proposed use of Corten steel by HE in its inspector's email of 28 November, in which he invited the defendant to give careful consideration to whether the use on a large scale of "materials somewhat alien to the area" was appropriate to the setting of the Conservation Area. Save voiced the same concern and C20 questioned the use of the material in a coastal location and suggested that it may have an impact on the long-term appearance of the building.

110. In their report to the Committee the officers had identified the use of Corten steel on the proposed buildings' elevations as "the more contentious element to the scheme" but had assessed the material in relatively favourable terms (see paragraphs 18 and 20 above). The officers had drawn attention to the importance of preserving appearance of the Conservation Area and the considerable weight which should be given to any harm which the proposal might do to it. After recording Mr Rhymes' view that the proposal "will not harm the significance of the heritage assets", officers had concluded that "subject to appropriate conditions, on balance it is considered that the dwelling would not ... harm the character and appearance of the Glaven Valley Conservation."
111. A condition requiring the provision of sample materials to be used for the external walls and roof was included in the permission.
112. The planning consultant's detailed objections which had accompanied Mrs Smedley's letter sent directly to each member of the Committee on 10 January had challenged the applicants' views on the weathering qualities of Corten steel, describing it instead as having "the appearance of rusted steel rather than red brick or pantiles." It was also said that "many sources recommend against using Corten steel within one mile of the sea" because contact with salts was thought to harm its aesthetic and structural qualities. A retailer of the product was quoted at some length alerting users to "protective issues with salt deposition ... in areas located within 1 mile from the ocean shore that receive continual salt spray." An alternative coated version of the product ("Corten AZP") was referred to as being available for architectural applications.
113. Visual representations of the proposed building were available at the meeting, and the suitability of materials was specifically discussed. Councillor Ward, who had called the proposal in, informed her colleagues that most of the comments she had received had been on that subject. Another Councillor asked for advice on how the Corten steel would weather (see paragraph 35 above).
114. The claimant's original grounds suggested that the Committee was misled by the failure of the officers' report to reflect the views of HE and C20 or to highlight the concerns of objectors about the suitability of the Corten product. Having described the materials and the extent of their use at the start of their report, and having identified them as "the more contentious element" of the application, I do not think that is a criticism that can fairly be levelled at officers. The objectors' views that the material was "alien", "inappropriate" and "unsympathetic" were recorded and it was acknowledged that there were "subjective elements to the scheme." Reference was made to the cautionary notes sounded by HE and to the objections of Save and C20. The use of unconventional materials was balanced against the "contribution to this sensitive setting" which the "higher quality modern design" would make. In my judgment the complaint that the Committee was misled or improperly briefed is unfounded.
115. The claimant also suggested that the absence of specific advice on materials as part of the assessment of "heritage impact" was a defect in the report, but once again I cannot accept that submission. The materials had been considered under the heading of "design" and the discussion of visual separation and "filtered views" as part of the heritage impact of the proposal was obviously relevant to the same assessment.

116. In his oral submissions Mr Pugh-Smith adopted a more nuanced approach to this ground. He submitted that the use of Corten steel was untried and untested in the defendant's area and the particular concern over its long term weathering properties in this location had not been addressed. It was therefore impossible for the Committee to make an informed judgment of whether the character or appearance of the Conservation Area would be preserved or enhanced as required by section 72(1) and Policy EN8. The imposition of a condition requiring the production of samples did not meet the objection since it did not allow for testing
117. I do not accept Mr Pugh-Smith's submissions. As Miss Parry pointed out, the Committee was directed in terms on the requirement of section 72(1). Both the Committee and the officers were aware that this was a coastal location and the discussion of the suitability of the material and its weathering properties took place against that informed background. Officers were entitled to form the view that they did and to advise the Committee that the material weathered well.
118. The officers' assessment that the proposed dwelling would not harm the character and appearance of the Conservation Area was arrived at on balance and was said to be "subject to appropriate conditions." Condition 3 left open the question whether the defendant was satisfied that the proposed materials were "visually appropriate for the approved development and its surroundings" (that being the stated reason for including the condition). I do not accept that a condition requiring approval of materials which was expressly justified in those terms prevented the defendant from taking into account any concerns which may have been expressed on possible long term weathering: "visually appropriate" includes consideration of both now and in the future. It would be for the applicants to satisfy any concerns on that front in order to obtain the approval they required.
119. I can see no need for the defendant itself to undertake testing or require that the applicants do so and I reject the complaint that, without a specific testing requirement, the condition was toothless. The doubts which the objectors had raised were based on the manufacturer's own recommendations on appropriate uses for the material and its variants, published on its website, and on the observations of a major supplier, which were also in the public domain. Until those concerns were addressed, approval could be withheld if officers considered it appropriate to do so.
120. For these reasons I do not accept any of the claimant's grounds of challenge and the claim is dismissed.



<b>Application Number: PF/16/1765</b>	<b>Appeal Reference: APP/Y2620/W/17/3182052</b>
<b>Location: Former Piggery, Boundary Farm, Hickling Road, Sutton, Norfolk, NR12 9SH</b>	
<b>Proposal: Prior notification of intention for change of use of agricultural building to dwellinghouse (C3) and associated operational development</b>	
<b>Officer Recommendation: Refuse</b>	<b>Member decision (if applicable) N/a</b>
<b>Appeal Decision: DISMISSED</b>	<b>Costs: N/a</b>
<p><b>Summary:</b> The main issues the Inspector considered were:</p> <ul style="list-style-type: none"> <li>Whether the proposal constitutes permitted development under schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted development) (England) Order 2015.</li> </ul> <p>The Inspector noted the advice in the Planning Policy Guidance (PPG) which states that 'the permitted development right under Class Q assumes that the agricultural building is capable of functioning as a dwelling'. He continued to state that this meant that 'it is only where the existing building is structurally strong enough to take the loading which comes with external works to provide for residential use that that building would be considered to have the permitted development right.</p> <p>The Inspector advised that whilst the structural report showed the existing building to be structurally sound, this is different to its ability to support the conversion or the need for new structural elements for the same purpose.</p> <p>In addition, he felt that the infill of the open southern elevation represented a significant proportion of the exterior of the building and that given the extent of the infill, he was not convinced that there would not be additional structural elements needed to support it.</p> <p>In conclusion the inspector considered that the proposal fails to demonstrate that the piggery building is strong enough to support the proposed conversion without the need for new structural elements and that therefore it is not permitted development.</p>	
<b>Relevant Core Strategy Policies:</b> N/a	
<b>Relevant NPPF Sections/Paragraphs:</b> N/a	
<b>Learning Points/Actions:</b> None	

<b>Application Number: PF/17/0083</b>	<b>Appeal Reference: APP/Y2620/W/17/3181634</b>
<b>Location: Hall Farm House, Black Horse Road, Skeyton, NORWICH, NR10 5DJ</b>	
<b>Proposal: Change of land from agricultural for siting of two shepherd huts for holiday accommodation; associated works</b>	
<b>Officer Recommendation: Refuse</b>	<b>Member decision (if applicable): Refuse</b>
<b>Appeal Decision: DISMISSED</b>	<b>Costs: N/a</b>
<p><b>Summary:</b> The main issues the Inspector considered were:</p> <ul style="list-style-type: none"> <li>Whether the site represents a suitable location for tourist accommodation having regard to the development plan and NPPF.</li> </ul> <p>The Inspector concluded that the Core Strategy was not out of date but is broadly consistent with the aims of the NPPF. As such, he considered that the proposals did not comply with any of the</p>	

exceptions outlined in policy EC10 of the Core Strategy. Further, the Inspector did not consider that the proposed use would add to the diversification of the farm business and is contrary to policy EC1. As a result he also found the proposal to be in conflict with policy EC7 of the Core Strategy.

**Relevant Core Strategy Policies:**

EC1 – Farm Diversification  
 EC7 – Location of New Tourism Development  
 EC10 – Static and Touring Caravan and Camping Sites

**Relevant NPPF Sections/Paragraphs:**

Section 3 – Supporting a prosperous rural economy

**Learning Points/Actions:**

None

<b>Application Number: PF/17/0385</b>	<b>Appeal Reference: APP/Y2620/W/17/3181678</b>
<b>Location: Land off Moor Lane, Stalham</b>	
<b>Proposal: Erection of single storey dwelling with integral garage</b>	
<b>Officer Recommendation: Refuse</b>	<b>Member decision (if applicable): Refuse</b>
<b>Appeal Decision: UPHELD</b>	<b>Costs: N/a</b>
<p><b>Summary:</b>          The main issues the Inspector considered were:</p> <ul style="list-style-type: none"> <li>• Whether the site represents a suitable location for residential development having regard to the development plan and the NPPF.</li> </ul> <p>The Inspector accepted that the appeal site is located in the Countryside policy area but notes the number of developments which have significantly changed the character and appearance of the surrounding area and the appeal sites relationship to it, particularly the groups of 5 and 3 dwellings granted under appeal to the east and south.</p> <p>The Inspector considered that the various developments surrounding the appeals site now contribute to the visual continuation of the frontage development along Yarmouth Road giving the area a more suburban character rather than rural. The appeal site is effectively enclosed on all 4 sides and now has the appearance of a vacant plot substantially surrounded by development.</p> <p>The Council argued that the previous sites had been allowed on appeal when the Council could not demonstrate a 5 year land supply. However, the Inspector considered that land supply is not the only matter which can render a development plan out-of-date. The Inspector considered that the development which has taken place following the adoption of the Core Strategy has rendered it out of date in its designation of the appeal site as countryside. As a result he afforded policy 2 very little weight in his determination and paragraph 14 of the NPPF is therefore triggered which requires planning permission to be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the framework as a whole – the tilted balance.</p> <p>The Inspector noted the number of facilities within a close range of the appeal site: a petrol station, shop, public house and school, and the centre of Stalham being only 1km away. He therefore concluded that the proposals would not be in an unsustainable location and would therefore not conflict with paragraph 55 of the NPPF.</p>	
<b>Relevant Core Strategy Policies:</b>	

SS2 –Development in the Countryside
<b>Relevant NPPF Sections/Paragraphs:</b> Paragraph 14 – The presumption in favour of sustainable development
<b>Learning Points/Actions:</b> This appeal decision will be passed to the Local Plans team for consideration of settlement boundaries in the new Local Plan.

**Sources:**

Sarah Ashurst – Development Management Manager