

ERPINGHAM - PF/22/0801 – Removal of stables, tennis court and outbuildings, and the creation of self-heated dwelling with associated access and landscaping works at 1 Walpole Barns, Thwaite Common, Erpingham, Norwich

Minor Development

Target Date: 30th January 2025

Extension of time: 10 February 2025

Case Officer: Phillip Rowson

Full Planning

RELEVANT SITE CONSTRAINTS:

Conservation Area Mannington and Wolterton

Landscape Character Assessment River Valleys Type: RV2 (River Valleys) River Bure and tributaries & TF1 (Tributary Farmland)

Countryside location

Nutrient Neutrality Surface Water - River Bure

GIRAMS multiple ZOI

Gas pipeline buffer

RELEVANT PLANNING HISTORY:

PF/94/0482: Stables – Approved

PF/94/1503: Tack room & stable block – Approved

PF/01/0952: Construction of tennis court with chain link perimeter fence – Approved

PF/01/1352: Construction of tennis court (revised siting) - Refused : Appeal dismissed.

PF/16/1243: Demolition of outbuildings/sheds and erection of two-storey garage and hanger - Approved

PF/22/0801: Removal of stables, tennis court and outbuildings, and the creation of self-heated dwelling with associated access and landscaping works - PCO - Pending Consideration

THE APPLICATION

Seeks permission for removal of stables, tennis court / outbuildings, and to then erect a self-heated dwelling with associated access and landscaping works. The application is a major development by virtue of having a site area of over 1 Hectare. The application is supported by:

- Arboricultural Impact Assessment
- Design & Access Statement
- Ecological Assessment
- Energy Statement
- Flood Risk Assessment
- GIRAMS HRA
- Heritage Statement
- Nutrient Neutrality Calculations

REASONS FOR REFERRAL TO COMMITTEE:

Assistant Director Call in:

This application poses a series of interesting Policy questions that include but are not limited to 'development in the countryside' and 'design and build quality'. In those regards Policy SS2 of the adopted Core Strategy and Paragraph 84 of the National Planning Policy Framework

are relevant considerations.

In addition it is recognised that the Council cannot demonstrate a 5 Year Housing Land Supply - at this time - and in the light of the new (December 2024) National Planning Policy Framework it seems appropriate to report an item to Committee where issues under paragraph 11(d) of that document (about 'granting permission unless') can be considered. This application happens to be timely in that regard

The inter-relationship of issues and planning considerations here are fairly unique and together justify consideration by Committee.

It is understood that this conclusion (i.e. reporting the matter to Committee) is one that the applicant is supportive of.

REPRESENTATIONS:

5 representations have been made **objecting** to this application, raising the following points

- Adverse impact on character of the conservation area
- Fails to meet strategic plan policy for location of development
- Impact on hedgerow
- Adverse impact on landscape
- Inappropriate and overly large design which does not enhance or preserve the existing buildings
- Flood risk from surface water flows

1 representation has been received making the following **comment**:

- Inaccurate comments from NCC highways there is no vehicular track in existing use, there is no pedestrian facility along Thwaite Common Road.

CONSULTATIONS:

Ward Councillor – Objection - supports comments of Parish Council

Alby with Thwaite PC: Objection

This major development is not in accordance with the provisions of the Area Development Plan. The proposed development includes landscape banking on an existing slope running down to Thwaite Common. There has already been historic flooding from the back fields through to The Common which has washed away Martin Conway's front brick wall.

The proposed building is at odds with the Mannington and Wolterton Conservation Area with protection against new development. The proposed large house is at odds with the following NNDC policies:

1. EN2 Protection and Enhanced landscape and settlement character which covers preserving settlement character and the special qualities and local distinctiveness of the area.
2. Policy EN4 Design. This covers scale and design and how it fits within the landscape.

A development of this type goes against the current and proposed 'core' strategy policy plans for North Norfolk SS2 (development in the countryside). It also fails to qualify under Policy HO2 (Ref 3-2-13) and should therefore be refused planning permission for a new dwelling on this site.

The proposed new house is not in keeping within the area and is against current Planning Policy. It is too large with a proposed style and design out of character with its natural surroundings.

Highways (NCC) - No objection

The site has an existing access and associated volumes of vehicular flow. No objections on highway safety, note remote from services and isolated location with no pedestrian facilities, encourage alternative modes of transport.

Public Rights Of Way (NCC) - No objection

Highlight that a Public Right of Way, known as Alby with Thwaite Footpath 6 is aligned along the Eastern boundary of the site. The full legal extent of this footpath must remain open and accessible for the duration of the development and subsequent occupation

Ramblers Association - No Objection

The site borders Alby-with-Thwaite FP6. Use of the footpath must not be jeopardised in any way, before, during, or after any development. The footpath surface, width, and headroom shall be maintained in a satisfactory condition permitting full unobstructed access at all times for walkers.

HSE - Advice

Do Not Advise Against, consequently, HSE does not advise on safety grounds, against the granting of planning permission in this case.

British Pipeline Agency - Advice

The pipeline is not affected by these proposals, and therefore BPA does not wish to make any comments on this application.

Anglian Water - Advice

No connection to the Anglian Water sewers, we therefore have no comments.

LLFA (NCC) - Advice

Minor development refer to standing guidance.

Environmental Protection (NNDC) - Advice

Recommend a contamination risk assessment condition.

Landscape (NNDC) - Advice

Summarised - Ecology: Assuming compliance with nutrient neutrality can be resolved in due course, officers hold no objection to the proposed development subject to Conditions.

Trees: Overall, the proposals will have a beneficial impact upon existing woodlands through favourable management which will improve green infrastructure and ecological interest in the longer term. Conditions should be used to ensure compliance with the arboricultural reports submitted.

Landscape: The impact of the large areas of glazing would contribute to an incremental increase in light pollution which could affect the nocturnal character of the area. However, conservation and expansion of areas of woodland and grassland heathland and ponds, together with managing the impact of climate change are recognised as being beneficial.

Conservation and Design (NNDC) - Advice

Summarised, it is acknowledged that the proposed dwelling would be a significant intervention into this rural location. Officers are able to conclude that no harm would be caused to heritage assets. With the scheme also considered to be of some design merit, there are consequently no grounds to object to this application. In offering this comment, however, it is recognised that there is wider policy consideration which need to be factored into the overall mix

Climate & Environmental Policy (NNDC) - Advice

It is very pleasing to see this application go above and beyond the council's planning requirements and demonstrate exemplar practice in supporting the council's 2045 Net Zero district ambition. From an operational sense the building will be Net Zero ready (in line with grid decarbonisation) and an immediate 84% domestic regulated CO2 reduction against part L shows the applicant will significantly reduce their contribution of carbon emissions.

There will be significant embedded carbon emissions associated with the construction, and we encourage the applicant to consider the use of materials and suppliers that are sustainable and possess a lower embedded carbon impact than traditional materials.

Environmental Health – No Objection subject to conditions

Essentially as the original buildings are being demolished and a new building created so the requirement for a questionnaire is not applicable. Given the circumstances the following conditions should be attached:

No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified competent professional, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice, and the Environment Agency's Land Contamination Risk Management Guidance.

No development shall take place on those areas of the site which have been identified as potentially containing contaminants until a detailed remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Upon completion of remediation works, a verification report undertaken by a suitably qualified competent professional must be submitted to and approved in writing by the Local Planning Authority before the development/relevant phase of development is resumed or continued, and no later than before first occupation

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.

LOCAL FINANCE CONSIDERATIONS

Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are not considered to be material to this case.

RELEVANT POLICIES:

North Norfolk Core Strategy (September 2008)

SS 1 (Spatial Strategy for North Norfolk)

SS 2 (Development in the Countryside)

SS 4 (Environment)
HO 5 (Agricultural, Forestry and Other Occupational Dwellings in the Countryside)
EN 2 (Protection and Enhancement of Landscape and Settlement Character)
EN 4 (Design)
EN 6 (Sustainable Construction and Energy Efficiency)
EN 8 (Protecting and Enhancing the Historic Environment)
EN 9 (Biodiversity and Geology)
CT 5 (The Transport Impact of New Development)
CT 6 (Parking Provision)

Material Considerations:

National Planning Policy Framework (NPPF) (December 2024)

Chapter 2 (Achieving sustainable development)
Chapter 4 (Decision-making)
Chapter 9 (Promoting sustainable transport)
Chapter 12 (Achieving well-designed places)
Chapter 14. (Meeting the challenge of climate change, flooding and coastal change)
Chapter 15 (Conserving and enhancing the natural environment)
Chapter 16 (Conserving and enhancing the historic environment)

Supplementary Planning Documents and Guidance

North Norfolk Design Guide (2008)
North Norfolk Landscape Character Assessment (January 2021)

OFFICER ASSESSMENT:

Main issues for consideration:

1. **Principle of development**
2. **Impact on character of the area and design**
3. **Ecology**
4. **Nutrient Neutrality**
5. **Arboriculture**
6. **Energy and Water Efficiency**
7. **Highways and parking**
8. **Other matters**
9. **Conclusion & Planning Balance**

1. Principle of development

In accordance with Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004, planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

In this case the development plan for the area currently includes the North Norfolk Local Development Framework Core Strategy which was adopted in September 2008 and the Site Allocations Development Plan Document which was adopted in February 2011. The emerging North Norfolk Local Plan has been subject to examination and the Local Planning Authority (LPA) have received the Inspectors initial feedback:

Three key areas arose for consideration:

- **Housing need and supply** – considering options to provide additional dwellings over an adjusted Plan period of 2024-2040 in order to address an identified shortfall of housing, and to allow for flexibility and contingency across the Local Plan period.
- **Spatial strategy** – considering a range of options to broaden the ‘Small Growth Villages’ element of the settlement hierarchy to allow for additional growth.
- **Evidence updates** – an updated Gypsy & Traveller Accommodation Needs Assessment to assess the latest need in line with best practice (already commissioned).

Following receipt of the Inspector’s findings the Council have drafted revisions and undertaken further public consultation, seeking feedback on the LPA’s proposals to address the Inspector’s main areas of concern.

At the current time, only very limited weight can be afforded to the policies of the emerging plan as noted above.

At a national level, the National Planning Policy Framework (NPPF) constitutes guidance which the LPA must have regard to. The NPPF, as amended in December 2024, does not change the statutory status of the development plan as the starting point for decision making but is a material consideration in any subsequent determination.

The spatial strategy for North Norfolk is set out within Core Strategy Policy SS 1. This states that the majority of new development within the district will take place in the towns and larger villages dependent on their local housing needs, their role as employment, retail and service centres and particular environmental and infrastructure constraints. The policy lists principle and secondary settlements as well as service and coast service villages. The rest of North Norfolk is designated as ‘Countryside’ and development will be restricted to particular types of development to support the rural economy, meet affordable housing needs and provide renewable energy.

The application site is within the designated Countryside as detailed in Policy SS 2, here development is limited to that which essentially requires a Countryside location. The policy sets out a number of qualifying criteria for development that will be considered in such locations. Other than agricultural workers dwellings, the only new build residential proposals that would be considered acceptable under Core Strategy policy is affordable housing under the exceptions Policy HO 3. As such, the proposal for a market dwelling in the countryside would be considered a departure from Core Strategy Policies SS 1 and SS 2.

Infill development

The supporting planning statement considers that the plot is in effect an infilling development within an informal historical linear development. However, the application itself states that the plot is set back 70 metres from the Highway extensively screened by woodland. The detached setback screened nature of development fails to provide infilling of any obvious gap in the loose linear settlement pattern at Thwaite Common.

The preamble to policy SS 2 (2.4.12) states

...that countryside area is a principal element in the rural character of North Norfolk and is enjoyed by residents and visitors. The quality and character of this area should be protected and where possible enhanced, whilst enabling those who earn a living from, and maintain and manage, the countryside to continue to do so. Therefore, while some development is restricted in the Countryside, particular other uses will be permitted in order to support the rural economy, meet local housing needs and provide for particular uses such as renewable energy and community uses.

Officers find that the proposals do not follow the settlement pattern at Thwaite Common and are not infill development. Further consideration is given to development in Countryside areas in the context of paragraph 84 of the NPPF below.

In addition to Policies SS 1 & SS 2 of the Core Strategy, paragraph 84 of the NPPF (2024) applies to consideration of development in isolated countryside locations and states:

“Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential building; or
- e) the design is of exceptional quality, in that it:
 - i. is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - ii. would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area”.

In the first instance for paragraph 84 to be applicable then the application site must be remote in its setting. The ‘Braintree’ judgments (*Braintree District Council v Secretary of State for Communities and Local Government & Others [2017] EWHC 2743 (Admin) of 15 November 2017, and subsequently in the Court of Appeal judgment of 28 March 2018*); determined that “remoteness” should be given its ordinary objective meaning, i.e. ‘far away from other places, buildings or people’. The Appeal Court Judge stated that whether a proposed new dwelling is, or is not, ‘isolated’ in this sense will be a matter of fact and will be determined by the planning judgment of the decision-maker based on the specific circumstances of each case.

The site is part of wider setting of Thwaite Common, it is within the loose cluster of buildings that characterises the locality:

- 60m St Jude’s Cottage,
- 60m Walpole Barns,
- 90m Nutmeg Cottage

The impact of development in that landscape and heritage setting will be considered later. Nevertheless, the proximity of other buildings and activity from other people lead to the conclusion that the site cannot be considered ‘isolated’ in the terms of NPPF paragraph 84 as determined by the Braintree judgments i.e., it is not set ‘away’ from places, buildings and people is very limited.

In any event, even should the Council be minded to agree that the site was remote then officers would turn to consideration of exceptional design as set out in the qualifying criteria (e). Whilst there may be some limited landscape and biodiversity benefits, it seems unlikely that the proposals would “significantly enhance” the immediate setting as required by paragraph 84. The architectural design of the proposed house has merit, it may help in some small way to raise standards of design in rural areas, but there is rather less evidence to suggest that it would clear the extremely high bar of being truly outstanding design under NPPF paragraph 84.

From a technological perspective, then the aspiration for “*greener ways to use concrete*” initiative appears predicated on solving problems that do not necessarily require residential development or are otherwise predicated by mitigating the impacts of an otherwise unnecessary form development to the application site. There may be elements that would inform other efforts to address climate-change. However, it is unclear as to the extent that the proposed technology, particularly self-heating, is either groundbreaking or would readily transfer to the everyday development of smaller plots that will need to be engaged in any meaningful action. Other elements such as PV panels are already in wide commercial use. Officers can see no outstanding uniqueness to any individual technology proposed, or indeed any outstanding merit in the way in which the individual technological elements are harnessed in combination to support this project.

The result of these conclusions is that the exceptions in NPPF paragraph 84 cannot be applied, and that the proposal, being in a location not listed in Policy SS1 and for development outside of Policy SS2, would be contrary to local and national policies of restraint of new development in Countryside policy areas.

Five-year housing land supply:

The National Planning Policy Framework (NPPF) requires Local Planning Authorities to identify a supply of specific deliverable sites to provide a minimum of five-years’ worth of housing. At the current time, North Norfolk District Council is unable to demonstrate deliverable sites sufficient to provide a minimum of five years’ worth of housing.

Planning applications will therefore be considered in line with paragraph 11(d) “Tilted Balance” of the NPPF which states that:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
- ii any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination”.

Further consideration of this will be provided within the Planning Balance section of this report below.

Self or Custom Building:

The applicant’s agent referred to the proposals in an email on 22 July 2024 as being a *self-build house*. No further evidence is submitted to inform the proposals as Self or Custom Building beyond the title of the title of that email. No mechanism is proposed to control occupancy to be restricted to Self or Custom Builders. However, for the sake of making a comprehensive decision it is appropriate to consider the proposals as updated by the agent’s email.

The Self-build and Custom Housebuilding Act 2015 (‘The Act’, as amended by the Housing and Planning Act 2015), and the Self build and Custom Housebuilding Regulations 2016, together provide the legislative basis for promoting Self and Custom Build Housing in England. The Act requires the Council to maintain a register of persons ‘seeking to acquire’ serviced plots on which to construct a custom or self-built dwelling which are “*to be occupied as homes*”

by those individuals". The Act places a duty on the Council to permit enough 'suitable' development permissions to meet the demand for serviced plots (as established by those persons and plots entered onto Part 1 of the Register).

Development permission is defined as 'suitable' in the Act if it is 'development which could include custom and self-build housing'. The relevant national guidance states 'Relevant authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area'. The definition and interpretation of 'suitable' is a key consideration in the grant of development permissions.

Irrespective of whether a dwelling is custom or self-built, this does not negate the application of the strategic development plan policies, in particular Core Strategy Policies SS 1 and SS 2 as noted above. As referenced earlier Policy SS 1 sets out the spatial strategy for North Norfolk, development will be focused on the majority of new development in the Principal Settlements. Policy SS 2 requires that development in such areas will be limited to that which requires a rural location and is for one of the forms of development listed in the policy. The acceptable forms of development listed under Policy SS 2 does not include Custom and Self Build dwellings, they would be assessed similar to market dwellings in the countryside.

The custom and self-build housing' register for North Norfolk shows a very modest requirement of 13 people (in a population of 105,000) for custom and self-build plots in North Norfolk (2023 - 2024). Officers find no specific self-build need registered for Thwaite Common or Erpingham, out of the total registrations two registrations relate to a district wide location and two do not specify a preferred location.

The Council's current position is that policies in the emerging Local Plan have been developed to address this modest demand for custom or self-built, in the interim, Officers continue to seek to negotiate provision of self-build plots where appropriate. The Council has been successful in granting suitable development under PO/17/0680 which includes up to 30 serviced custom or self-build plots in Fakenham, secured by S106 agreement. That permission is granted in a suitable and sustainable location in accordance with the adopted settlement hierarchy.

Whilst the demand for a serviced self-build plot may be established by the Register, the proliferation of development in an unsustainable location and in conflict with the Development Plan makes this proposal unsuitable for a new dwelling to meet demands for Self or Custom Building.

Summary

Notwithstanding the submissions from the applicant in support of their proposal, Officers consider that the proposal should be assessed as a new market dwelling in the countryside which would be considered a departure from Core Strategy Policies SS 1 and SS 2. Even if the proposal were to be regarded as a Self or Custom Building, the countryside location would nonetheless weigh heavily against the grant of planning permission.

NPPF paragraph 84 is not considered to apply to this proposal and there are no other material considerations that would support the principle of a new dwelling in this location.

2. Impact on character of the area and design

Landscape policy context

Core Strategy Policy EN 2 states that proposals should be informed by, and be sympathetic to, the distinctive character areas identified in the North Norfolk Landscape Character Assessment and features identified in relevant settlement character studies. Development

proposals should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance:

- the special qualities and local distinctiveness of the area (including its historical, biodiversity and cultural character)
- gaps between settlements, and their landscape setting
- distinctive settlement character
- the pattern of distinctive landscape features, such as watercourses, woodland, trees and field boundaries, and their function as ecological corridors for dispersal of wildlife
- visually sensitive skylines, hillsides, seascapes, valley sides and geological features
- nocturnal character
- the setting of, and views from, Conservation Areas and Historic Parks and Gardens.
- the defined Setting of Sheringham Park, as shown on the Proposals Map.

Proposals should demonstrate measures that enable a scheme to be well integrated into the landscape and enhance connectivity to the surrounding green infrastructure and Public Rights of Way network and provide biodiversity enhancements.

Officers note that the application is supported by a Landscaping Statement with a Schedule and Landscape Management Plan. Officers consider that the proposed landscape scheme is robust, comprehensive and in accordance with LVIA guidelines.

From a landscape setting perspective, views to and from the Conservation Area are restricted or obscured by green infrastructure, the setting of the dwelling within the proposed earth banks will further limit visibility.

The site is within two identified landscape character areas - River Valleys & Tributary farmland landscape. On site woodland planting will enhance the structural complexity and biodiversity of the existing woodlands. Forces for change include settlement expansion and infill to meet housing demand. Negative impacts upon the nocturnal character of the area may arise and will need mitigation and conditional control.

Overall, the expansion of woodland with a more diverse planting is considered a benefit from the proposals. On balance and if appropriate conditioned then the proposals are considered to comply with policy EN 2.

Heritage policy context

Policy EN 8 of the Core Strategy states that development proposals should preserve or enhance the character and appearance of designated assets, historic buildings/structures, monuments, landscapes and their settings through high quality, sensitive design. Where required, development proposals affecting sites of known archaeological interest will be required to include an assessment of their implications and ensure that provision is made for the preservation of important archaeological remains. This policy also seeks to ensure that the character and appearance of Conservation Areas is preserved, and where possible enhanced, encouraging the highest quality building design, townscape creation and landscaping in keeping with these defined areas.

The Local Planning Authority will also take into consideration the guidance contained within Chapter 16 of the NPPF. A number of these requirements are detailed below, including the requirement to balance any less than substantial harm to a designated heritage asset against the public benefits of the development.

Paragraph 212 of the NPPF states that:

“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 (and the more important the asset the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”.

Paragraph 215 of the NPPF requires that 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, where appropriate, securing its optimum viable use.

The proposals have potential to impact upon two heritage assets The Mannington & Wolterton Conservation Area and the listed building Nutmeg Cottage.

The Mannington & Wolterton Conservation Area allocation is extensive its main significance is derived from the lands which formerly made up the Walpole estate. However, it also extends eastwards to include the attractive countryside around Thwaite Common. Key considerations are the re-aligned access drive, going through the woodland belt; and the proposed house laying just outside the conservation area. From a heritage point of view the more additive form of the proposed house would be preferable to the monolithic boxiness of the previously approved hangar. Further, the tree belt would provide a strong landscape buffer through which only filtered views of the new build would be available. As such it is considered that the proposals would only result in limited harm being caused to the Mannington & Wolterton Conservation Area.

Nutmeg Cottage is a characterful Grade II listed building which lies to the south east of the site, approx. 90m from the proposed dwelling. Despite this proximity it is considered that any harm that would be caused to its setting is mitigated by the self-contained curtilage of the cottage and the intervention of the two-storey St Jude’s Cottage which is situated between the receptor listed building and proposals. With limited intervisibility the development would have a neutral impact upon the overall significance of this asset.

Officers consider that the proposals would comply with Policy EN 8 and Chapter 16 of the NPPF.

Design policy context

Core Strategy Policy EN 4 states that all development will be of a high-quality design and reinforce local distinctiveness. Design which fails to have regard to local context and does not preserve or enhance the character and quality of an area will not be acceptable. Proposals will be expected to have regard to the North Norfolk Design Guide:

- incorporate sustainable construction principles,
- make efficient use of land, be suitable designed within their context,
- retain important landscape and natural features and incorporate landscape enhancements, ensure appropriate scales,
- make clear distinctions between public and private spaces, create safe places, are accessible to all, incorporate footpaths and green links,
- ensure that parking is discreet and accessible
- and where possible, contain a mix of uses, buildings and landscaping.

The scheme proposes a bespoke contemporary design which is embed into the contours of

the site, rather than sitting atop of the topography in a conventional manner. It aspires to sustainable building credentials and carbon neutrality. There is a distinctive palette of materials and a layered arrangement of elements.

As noted above the proposals cannot be considered under the strategic locational exceptions afforded under NPPF paragraph 84, the location is not remote from other buildings and dwellings. Further the proposals fail to meet the high design bar under NPPF paragraph 84. The proposals will not significantly enhance the immediate setting as required by the NPPF. Rather the proposals are designed to merge and minimise impacts, the development does not showcase an exceptional and innovative design which would truly enhance the heritage and landscape setting of Thwaite Common. Furthermore, the sustainable technology proposed is not singularly or in combination considered expressly innovative and for the reasons detailed above the sustainability criteria would not meet the design tests laid out in NPPF paragraph 84.

The extent and impact of the glazing is a concern, more so when within the nocturnal rural setting and in combination with glint and glare from PV panels. However, those concerns maybe suitably addressed using conditions requiring Photochromatic / VLT glass and detailed design of PV panels to be submitted.

On balance, Officers consider that the proposals, if conditioned appropriately, would comply with Policy EN 4.

3. Ecology

The Council has a duty under the Natural Environment and Rural Communities Act 2006 to have full regard to the purpose of conserving biodiversity which extends to being mindful of the legislation that considers protected species and their habitats and to the impact of the development upon sites designated for their ecological interest.

Core Strategy Policy SS 4 states that areas of biodiversity interest will be protected from harm, and the restoration, enhancement, expansion and linking of these areas to create green networks will be encouraged. Policy EN 2 states that development should protect, conserve and, where possible, enhance distinctive landscape features, such as woodland, trees and field boundaries, and their function as ecological corridors for dispersal of wildlife.

Core Strategy Policy EN 9 States that all development should protect the biodiversity value of land and buildings and minimise the fragmentation of habitats, maximise opportunities for restoration, enhancement and connection of natural habitats and incorporate beneficial biodiversity conservation features where appropriate. Proposals which cause a direct or indirect adverse effect to nationally designated sites, other designated areas or protected species will not be permitted unless:

- they cannot be located on alternative sites that would cause less or no harm;
- the benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats; and
- prevention, mitigation and compensation measures are provided.

The policy also states that development proposals that would be significantly detrimental to the nature conservation interests of nationally designated sites will not be permitted.

NPPF paragraph 187 states that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing sites of biodiversity

value, minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

NPPF paragraph 193 states that when determining planning applications, significant harm to biodiversity should be avoided, adequately mitigated, or, as a last resort, compensated for. Should this not be possible, then permission should be refused.

Extensive and amended evidence has been submitted by the applicant. Officers consider that, subject to the imposition of conditions to secure the mitigation and enhancements recommended in the submitted report, the proposal would accord with Policy EN 9 of the adopted North Norfolk Core Strategy.

4. Nutrient Neutrality

Long-term nutrient pollution has led to adverse impacts upon designated Habitat Sites to the extent that the condition of some sites, including The Broads Special Area of Conservation (SAC) and Ramsar site, are no longer considered to be favourable. Nutrient neutrality guidance was issued by Natural England on 16 March 2022 requiring competent authorities to ensure that any planning applications proposing a net gain in overnight accommodation (e.g., new dwellings) must evidence that there will be no net increase in nutrient loads (nitrates and phosphates) within an affected catchment area. As the competent authority, North Norfolk District Council is required to have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended). Where the Local Planning Authority cannot lawfully conclude that development within the catchment of The Broads SAC and Ramsar site will not have an adverse effect, permission would have to be refused. However, where there is sufficient evidence to rule out likely significant effects, permission can be granted.

The proposed development would result in the creation of overnight accommodation through the creation of a new stand-alone dwelling. Given the application site lies within the catchment area for The Broads SAC and Ramsar site it is likely to have an adverse impact on European Designations requiring mitigation in relation to nutrient enrichment. Officers are satisfied with the additional information provided in respect to demonstrating that the development would fulfil the criteria to be considered a 'low risk' and to not cause significant phosphorus pollution in accordance with *Annex F of Natural England's advice*.

The Nutrient Neutrality Assessment and Mitigation Strategy (Create Consulting Engineering Ltd, 20th August 2024) has provided nutrient budget calculations for the proposed development which demonstrates the change of land use at the site would lead to the scheme being nitrogen neutral. The Council are satisfied these calculations are accurate and based on the best available evidence.

Further, desk-based and site investigations have been undertaken to demonstrate the proposed development and foul water discharge via a drainage field would follow all criteria required to be considered a 'Low Risk' in accordance with Annex F of Natural England's Nutrient Neutrality advice.

On this basis, it is considered the proposed development would not result in an increase in nitrogen or phosphorus discharge within The Broads SAC/Broadland Ramsar catchment, and therefore no significant adverse impacts on the integrity of these sites would occur.

It has been demonstrated the proposed development would be highly unlikely to result in the discharge of higher volumes of nitrogen or phosphorus over the existing site use. Therefore, there is negligible risk of the project contributing to in-combination impacts upon The Broads SAC/Broadland Ramsar.

Officers consider that the proposals would comply with Policies SS 4 and EN 9 of the adopted North Norfolk Core Strategy..

5. Arboriculture

Core Strategy Policy EN 2 states that development should protect, conserve and, where possible, enhance distinctive landscape features, such as woodland, trees and field boundaries. Core Strategy Policy EN 9 seeks to maximise opportunities for restoration, enhancement and connection of natural habitats.

Paragraph 187 of the NPPF states that decisions should recognise the intrinsic character and beauty of the countryside, including the benefits associated with trees and woodland.

The application is supported by an Arboricultural Impact Assessment, Tree Protection Plan, Method Statement report. Officers are satisfied with the methodology and conclusions drawn in these supporting documents.

The overall strategy of tree removal (facilitating access) and replacement with more diverse and appropriate species is supported. As proposed replacement planting will consist of new woodland and individual tree planting to the north and will include underplanting and edge planting to provide structurally complex woodland of higher biodiversity value. Overall, the proposals will have a beneficial impact upon existing woodlands through favourable management which will improve green infrastructure and ecological interest in the longer term. Conditions can be used to ensure compliance with the arboricultural reports submitted.

Officers consider that the proposals would comply with Policy EN 2 of the adopted North Norfolk Core Strategy.

6. Energy and Water Efficiency

Core Strategy Policy EN 6 states that new development will be required to demonstrate how it minimises resource and energy consumption and how it is located and designed to withstand the longer-term impacts of climate change. All developments are encouraged to incorporate on site renewable and / or decentralised renewable or low carbon energy sources, and regard should be given to the North Norfolk Design Guide in consideration of the most appropriate technology for the site.

The applicant has submitted documents which demonstrate exemplar practise in supporting the councils 2045 Net Zero district ambition. From an operational sense the building will be Net Zero ready (in line with grid decarbonisation) and an immediate 84% domestic regulated CO2 reduction against part L (Building Regs) shows the applicant will significantly reduce their contribution of carbon emissions.

There will be significant embedded carbon emissions associated with the construction, officers would encourage consideration of local sourced materials and suppliers that are sustainable and possess a lower embedded carbon impact than traditional materials.

Subject to conditional control and agreement over materials sourcing then the proposals are considered to comply with Policy EN 6 and NPPF paragraphs 164 & 165.

7. Highways and Parking

As a remote location which intends to service a single new build dwelling then Policy CT 5 (The Transport Impact of New Development) is a material consideration. The policy requires that proposals provide safe and convenient access on foot, cycle, public and private transport inclusive of those with a disability. The proposals shall be served via a safe highway network with detriment to the character or amenity of the locality. The expected nature and volume of traffic generated by the proposal should be accommodated by the existing road network without detriment to the amenity or character of the surrounding area or highway safety.

Policy CT 6 requires adequate vehicle parking facilities will be provided by the developer to serve the needs of the proposed development. Development proposals should make provision for vehicle and cycle parking in accordance with the Council's parking standards, including provision for parking for people with disabilities. Annex C to the local plan details requirements in terms of parking for proposed uses.

Officers recognise that the site has an existing access and therefore has volumes of vehicular flow associated with the historic uses on site. No objections on highway safety are raised under Policy CT 5 & 6.

However, the location is remote from services with no pedestrian facilities or means to encourage alternative modes of transport. It is dependent on the use of a private car contrary to NPPF paragraph 115 (a).

8. Other material considerations

Contaminated land

Given the agricultural history of the land/buildings there is potential for it to be contaminated. A contaminated land questionnaire has not been completed. Officers recommend a condition is applied to ensure that the applicant provide information to confirm a non-contaminated site and control over demolition of buildings is added in respect of Section 80 of the Building Act.

Fallback

The applicant highlights a previous planning permission PF/16/1243, granted on 8 March 2017, *Demolition of outbuildings/sheds (stables, outbuildings and tennis court) and erection of two-storey garage and hanger at 1 Walpole Barns, Thwaite Common*. The current application proposes that the planning permission PF/16/1243 is surrendered in favour of the current proposals, and that all helicopter activity associated with the applicant and their dwelling is to cease in the locality. A Revocation Order would be required to ensure that the previous permission is surrendered.

Consideration of the fallback position:

i) Implementation: The planning permission PF/16/1243 is claimed as being extant via a contemporaneous email exchange with a planning officer. The email submitted states that "*Removal of the existing sheds and outbuildings is currently underway*" (as at 5.3.20 supporting statement). However, there is no Lawful Development Certificate to support implementation of the planning permission. The proposal is reliant solely on an email exchange with no detailed case officer site visit note or photographs to verify implementation in March 2020.

In any event, if agreed that it fails to be lawfully implemented then two further tests are relevant to consideration of the fallback position (*R v Secretary of State for the Environment and Havering BC 1998*):

- ii) *There must be a likelihood or real prospect of such use occurring.*
- iii) *A comparison must then be made between the proposed development and the fallback use.*

ii) Intent: The second test directs toward the *real prospect of such a use occurring*.

The supporting Design & Access Statement appears to rule out the probability of the development approved under PF/16/1243 now coming forward by removing the possibility of Helicopters flying from the site for private use.

Furthermore, the permission, which was granted in March 2017, was followed by a hiatus with no action being taken to bring the permission forward until the eleventh hour of that permission expiring. A “*death knell*” commencement manifested in March 2020. No operational development associated with the building work appears to have taken place following the demolition.

These actions do not speak of a keen intent to build out this historic permission. Furthermore, there appears to have been no further activity on site in the period from March 2020 to the current application being submitted in March 2022. At this stage, more than seven years from the grant of permission had elapsed.

The Local Planning Authority are told the applicant is minded to surrender the historic hangar permission and to no longer fly Helicopters from the site. Officers note that in any event planning permission is not required to fly and land helicopters from the site for private use. Further, that there is no record of complaints regarding helicopters flying to and from the applicant’s site.

The likelihood / real prospect of the planning permission PF/16/1243 ever being built out appears to be limited from the evidence available. Officers could be forgiven for thinking that interest in the hangar project had waned. Rather, it appears that the hangar permission is “banked” as a bargaining chip, now to be used to facilitate the current proposals. However, the case law in these matters sets a low bar as to the *real prospect of such a use occurring*. Officer’s note that the applicant firmly states that if this permission is refused than he will build out the hangar project.

iii) Comparison: The third test relies on an accurate comparison between the proposed development and that already permitted. The Design and Access Statement endeavours to address this point by showing approved and proposed drawings. Further assistance has now been offered by an overlay of proposed and approved now been submitted.

The application PF/16/1243 was subject to detailed consideration in terms of impacts on landscape and heritage assets, the case officer determined the application with appropriate policy consideration for landscape and heritage. Officers note that the proposals were considered under the same local plan policy framework as the current application, the hangar was found to comply with Policies SS 2 & H0 8, it was a suitable domestic outbuilding being proportionate in scale to the existing dwelling and its curtilage.

The hangar is beyond the conservation area but was found to potentially impact on views to and from the heritage asset. However, the limited glimpsed views and screened nature of the site were considered to suitably ameliorate impacts of the hangar under policies EN 4 and EN 8. Similarly, under Policy EN 2 the setting of the site and wider landscape was suitably mitigated. Conditional controls enabled the officer to arrive at a view that the building would not result in any material landscape harm. Indeed, the rather perfunctory agricultural vernacular of the hangar was a positive in this respect.

Amenity impacts on near neighbours were considered acceptable, given the permitted development allowance for flights already in place and CAA regulations governing the maximum number of flights from the site. The permission was conditioned to be for private flights only.

The proposed demolition of outbuildings and removal of the tennis court to create a new dwelling with associated mitigation is not without landscape, design or ecological merit. In design terms the building is better articulated than the approved hangar, its scale and mass are reduced by excavating the building into the ground. A suite of new planting and biodiversity measures are associated with the proposals. The proposed dwelling can be carbon neutral.

However, the proposed building is a single stand-alone dwelling, it is contrary to strategic and locational policies. It is set apart from local services and facilities, reliant on the use of the private car and otherwise not in sustainable location. It is not considered under the same policy criteria as the hangar (this which was an ancillary building associated with an existing dwelling). The limited benefits from the proposals are set against the approved hangar building which was otherwise policy compliant and considered to have limited to nil impact on local amenity, landscape and heritage assets.

Officers' find the new build dwelling proposals are not preferable over the implementation of the Hangar building approved under PF/16/1243. The hangar proposals had otherwise satisfied policy compliance, the proposed new dwelling is in an unsustainable location and reliant on delivery of further mitigation to justify a policy balance. Officers consider that additional planting and biodiversity improvements are not in themselves reliant on the addition of a new dwelling. If there is an intent to reduce carbon footprint then the existing hangar permission could be reviewed, and measures taken to improve carbon emissions and deliver initiatives to be considered. Furthermore, the proposed new dwelling creates harm to strategic plan policy and is otherwise unsustainably located.

Officers find that the Fallback position does not support the new dwelling proposals, the Local Planning Authority would prefer the permitted hangar to be built out as approved and otherwise being policy compliant.

9. Planning balance & Conclusion:

Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004, planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The site is outside settlement boundaries, contrary to local and national policies of restraint. Harm would be caused to matters of acknowledged strategic importance. The proposal fails to comply with Policies SS 1 and SS 2 of the Development Plan which seek to deliver a strategic plan led approach to development within the district.

The site this is not an isolated location such as may otherwise be supported under NPPF paragraph 84, as an exception to the plan led approach. In any event even should the site have been considered to be "remote" within the context of NPPF paragraph 84, then the proposals are considered not to be of an exceptional quality of design which may be otherwise be supported under NPPF paragraph 84 section e).

As a Self and Custom Build Housing proposal then the strategic policies SS 1 and SS 2 still apply, there is no recorded demand for such housing at Thwaite Common or Erpingham. In

addition, Self and Custom Build proposals are required to be provided in otherwise sustainable locations with appropriate access to services and facilities.

However, the District Council cannot demonstrate a five year supply of deliverable housing sites. As such the tilted balance is engaged under para 11d of the NPPF, i.e. permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of granting permission. when considered against the policies in the Framework taken as a whole.

The proposals will add no more than a single dwelling which is afforded limited weight in meeting the undersupply of housing within the district. Limited positive weight can also be afforded to the contemporary design of the proposals which will locally lift the bar for design in the immediate area. Further limited positive weight is given to the employment provided during construction and future occupants contribution to spending to the local economy.

Officers afford limited positive weight to mitigation measures which are otherwise required to offset harm arising from the development's impact. Of relevance in this matter is the proposed landscape planting and biodiversity measures. However, these elements are deliverable independently and do not need to be tied to the actions required to mitigate otherwise unacceptable proposals.

Similarly, carbon neutrality for the proposed dwelling is required to offset the impact / footprint of the development, i.e. should no dwelling built then the measures would not be required.

The applicant seeks to attach weight to a fallback position which relates to an extant planning permission for a helicopter hangar building. For the reasons given above officers do not support the fallback position for a new dwelling and afford no positive weight to this consideration.

The harm afforded to development of a dwelling in a countryside location which is set apart from services and facilities is a fundamental negative in the strategic plan led process. The proposal will generate more traffic to and from the site, as the resident's struggle to access local services and facilities, there are no local footways servicing the application site, it is remote from cycle routes and local bus services. It would be unattractive for proposed residents to utilise alternative modes of transport.

The limited scale of a single dwelling together with its equally limited associated benefits can only weigh modestly in favour of the proposals. The proposal is in an unsustainable location and causes significant harm, both to locational strategy and reliance on additional private car journeys. It would therefore be contrary to the provisions of the development plan taken as a whole. There are no material considerations in this instance, either individually or collectively, which indicate determination of the application should be other than in accordance with the development plan.

RECOMMENDATION:

REFUSE Planning permission for the following reasons:

1. The dwelling is in the countryside set apart from services and facilities, the harm afforded to an unsustainable car dependent form of development is clearly contrary to the strategic plan led process and sustainable development aims of the local plan. It would be unattractive for proposed residents to utilise alternative modes of transport. given the remoteness from cycle routes, infrequent local bus services and the narrow lanes with no local footways servicing the application site. Residents will struggle to access local

services and facilities by alternative modes of transport, the proposal will generate more private car journeys to and from the site.

The development site is not in a remote location as required under NPPF paragraph 84, furthermore the proposed design is not considered to be truly outstanding within the provision of NPPF paragraph 84 (e).

The proposals are not considered to be an acceptable form of infill development and attract no support for Self and Custom Build Homes given the otherwise unsustainable location of the application site.

The Local Planning Authority consider that the tilted balance is engaged under NPPF paragraph 11 (e) as the Council are currently unable to demonstrate a five year housing land supply. Given the scale of development, then the contribution of a single dwelling together with its associated benefits would only weigh modestly in favour of the proposal. The proposal would be in an unsustainable location and cause further harm by increased private car journeys. It is contrary to the provisions of the development plan taken as a whole. There are no material considerations in this instance, either individually or collectively, which indicate determination of the appeal should be other than in accordance with the development plan.

The proposals are contrary to Development Plan Policies SS 1 & SS 2 and NPPF paragraphs 11 & 84.

Final wording of reasons for refusal to be delegated to the Assistant Director – Planning