

NORTH WALSHAM – PP/20/0160: Permission in principle for the demolition of the existing buildings on site and the erection of four dwellings with associated parking and gardens and an extension of 30mph speed limit; Land East of Bacton Road, North Walsham, NR28 0RA; for Cincomas Ltd.

Major Development

- Target Date: 08 May 2020

- Extension of Time: 08 June 2020

Case Officer: Mr N Westlake

Permission in Principle

RELEVANT SITE CONSTRAINTS

LDF - Countryside

C Road

Tree Preservation Order ref. 190954

SFRA - Areas Susceptible to Groundwater Flooding

SFRA - Risk of Flooding from Surface Water + CC

EA Risk of Flooding from Surface Water 1 in 1000

Mineral Safeguard Area

LDF Tourism Asset Zone

RELEVANT PLANNING HISTORY

(for application site):

PP/19/1307 - Permission in principle for the demolition of the existing buildings on site & the erection of 5 no. dwellings – Refused 19/09/2019

(for adjoining site - Melbourne House complex):

PF/17/0756 - Change of use/conversion of main house to one dwelling and three flats and the conversion of outbuildings/barn to five dwellings – Approved 23/08/2017

THE APPLICATION

This application for Permission in Principle is proposed with a 'red line' for possible residential development which extends across a large area of woodland along the eastern side of Bacton Road. There are also large areas of land which are within the applicant's control within the 'blue line' areas to the south also on the road frontage, and the east at the rear of the site.

BACKGROUND TO PERMISSIONS IN PRINCIPLE

This application seeks planning 'permission in principle'. This is a type of application which was introduced only relatively recently, with very few such applications received so far in North Norfolk. As such it may assist the Committee in making their decision by setting out the process and implications thereof.

Permission in Principle is an alternative way of obtaining planning permission for housing-led development which separates the consideration of matters of the principle for proposed development from the technical detail of the development. It was introduced into legislation under the Town and Country Planning (Permission in Principle) (Amendment) Order 2017.

The Permission in Principle consent route has two stages: the first stage establishes whether a site is suitable in-principle (known as the "Permission in Principle stage" which is being considered now); the second stage, which is when the detailed development proposals are

assessed, is known as the “Technical Details Consent” stage.

The Government’s National Planning Practice Guidance (NPPG) Frequently Asked Questions describes how Permission in Principle is intended to:

“...settle the fundamental principles of development (use, location, amount of development) for the brownfield site giving developers/applicants more certainty. A developer cannot proceed with development, however, until they have also obtained technical details consent.

*The technical details consent will assess the detailed design, ensure appropriate mitigation of impacts and that any contributions to essential infrastructure are secured. **Both the permission in principle and the technical details consent stages must be determined in accordance with the local development plan, the National Planning Policy Framework and other material considerations.** [Officer’s emphasis].*

Technical details consent can be refused if the detail, including the design of the buildings or any mitigation scheme, is not acceptable. The local planning authority will not be able to revisit the decision on the fundamental principles of development as they [would] have been settled at the permission in principle stage.”

In accordance with the legislation, the description of development in relation to which a Local Planning Authority may grant Permission in Principle is “residential development of land”, and if it is considered appropriate for permission in principle to be granted, the LPA must specify the minimum and maximum net number of dwellings which are, in principle, permitted. The default duration of a Permission in Principle is 3 years, but an LPA can extend or shorten that duration if it is considered appropriate on planning grounds to do so, and must justify it as such within the decision notice.

If permission in principle were to be granted, the site must receive a grant of technical details consent before development can proceed. The granting of technical details consent has the effect of granting ‘full’ planning permission for the development. Development must therefore achieve both an approval of Technical Details Consent, and approval of any relevant ‘pre-commencement conditions’, and make a lawful implementation within 3 years of any Permission in Principle approval.

Other statutory requirements may apply at the Technical Details Consent stage such as those relating to protected species or listed buildings. An application for technical details consent must be in accordance with the permission in principle that is specified.

The NPPG reiterates that the scope of **Permission in Principle is limited to location, land use and amount of development**. Issues relevant to these ‘in principle’ matters only should be considered at the Permission in Principle stage.

It is not possible for conditions to be attached to a grant of permission in principle as its terms may only include the site location, the type of development and amount of development allowed, although LPA’s can inform applicants about what they expect to see at the technical details consent stage. Any refusal of Permission of Principle can be subject to appeal via the Planning Inspectorate.

Relevant Permission in Principle History

A similar Permission in Principle application was refused at the site for the ‘Demolition of the existing buildings on site & the erection of 5 no. dwellings’. this was refused as recently as 19 September 2019 under delegated powers (application ref. PP/19/1307). There were 6 reasons

for refusal which related to:

1. Inappropriate residential development in the Countryside.
2. Lack of affordable housing.
3. Inadequate visibility splays provided at the access.
4. Inadequate off-site facilities provided for pedestrians, cyclists and the disabled.
5. A lack of Noise and Odour Reports to justify the use in this location and address the impact on the proposed development from the neighbouring buildings especially the nearby Poultry Farm.
6. Insufficient details provided relating to the impact on protected species and the trees within the immediate area.

Officers do not consider there to have been any material changes in planning policy since the refusal was issued in September 2019, but this application has been considered in more detail in light of the applicant's stated intention to appeal the decision.

A copy of the refusal decision notice for application PP/19/1307 is provided at **Appendix A**.

PROPOSAL

This Permission in Principle application seeks approval for the demolition of the existing commercial (antiques) storage warehouse building and associated buildings and shelters on site and the erection of up to four dwellings with associated parking and gardens.

Access is proposed to remain from an existing track which is little used, as proposed in 2019. As with the 2019 application for permission in principle, the application proposes / offers to extend the 30mph zone on Bacton Road from south of the site to north of the site access.

The application has included:

- Site location plan
- Indicative layout plan
- 'Access Strategy' plan indicating proposed access and highways works
- Planning Statement, which contested the previous reasons for refusal and provided some additional highways information but did not provide any new evidence.

This application proposes the following updates to the scheme which was refused in September 2019:

- There is now one fewer dwelling proposed (four in total).
- A layout has been indicated in the submitted location plan which suggests that all four dwellings might be proposed within the walled industrial compound, but there are no means to require this nor to fix this within any approval.
- A new footpath might be proposed within the land to the south of the site, but nothing has been proposed to secure this.
- A new footway might be proposed in the verge of Bacton Road south of the access to Melbourne House, leading to a point opposite the Blue Bell public house, but nothing has been proposed to secure this.
- The four dwellings are suggested to appear as single storey barn-type structures with no rooms in the roof space. This is not specified in the application documents but has been confirmed in an email from the applicant dated 13/05/2020. As with the indicative layout, there are no means to require this nor to fix this within any approval.

Members will note that Permission in Principle cannot consider the merits of the appearance or layout design of a scheme, as those matters must come under the Technical Details Consent stage.

REASONS FOR REFERRAL TO COMMITTEE

At the request of local District Cllr Eric Seward who considers the application should be determined by Development Committee if Officers are recommending the application be refused.

LOCAL WARD COUNCILLOR(S)

Cllr Eric Seward – A general consideration that the site is suitable for residential development and consider that the Highway Authority concerns should not be so significant in practice.

A site visit is also requested, but the case officer did not notify the clerk in time to arrange a site visit through the 30 April 2020 Development Committee. Officers take a different view to that of Cllr Seward and do not consider it necessary to have a site visit for this application, because it is substantially a matter of principle only. A site visit would not assist with resolving the technical concerns of consultees which rely on further information being supplied by the applicant but which have not been forthcoming.

Cllr Paul Heinrich – No formal comments received.

PARISH/TOWN COUNCIL

North Walsham Town Council: No Objection

The Town Council considers the application can be supported in principle.

PUBLIC REPRESENTATIONS

One letter of support has been received.

- The current site is an eyesore so would support the proposals.
- The consultee lives approximately 35 metres from the Poultry Farm and has few experiences of odour or noise.

CONSULTATIONS

Norfolk County Council - Highways: Significant concerns raised but no objection on balance.

Given the size of the existing building concerned and availability of vehicle parking and servicing space on the existing site, it is expected the vehicle-generating potential of the site and existing use to be over and above, in both scale and vehicle size, that generated by the proposed residential development.

Therefore, there are no grounds for highway safety objection based on the scale (quantum) of development proposed or the character of vehicle movements.

With regard to encouraging pedestrian use, some mitigation is able to be provided by a footpath through the site linking to the existing Melbourne House access.

Therefore, highways do not object to the proposal subject to planning conditions relating to parking areas, visibility splays and internal footpaths.

However, due in part to the lack of associated 'side friction' to encourage reduced traffic speeds and the alignment of the carriageway, the County Council as Highways Authority does not support the extension of the 30Mph speed limit as, in their opinion, no reduction in traffic speeds would be achieved by extending the 30Mph limit.

When assessing the 2019 application, the Highway Authority were even clearer in recommending that the proposed Traffic Regulation Order to reduce the speed limit to 30mph must be disregarded as a mitigating measure as it is not achievable, as it is unlikely to have a significant effect on the 85th percentile traffic speeds passing the site. This means the visibility splay cannot be assumed to be suitable if designed to satisfy only a 30mph passing speed (which requires 90m splays on both sides of the access), as splays would need to satisfy the 40mph design requirements due to prevailing traffic speeds passing the site.

NNDC Landscape Officer: Objection

The Landscape Section are unable to determine whether the proposed demolition of the existing buildings on the site and the erection of four dwellings would be compliant with Core Strategy policy EN 9 as there is currently insufficient information to determine whether protected species (in accordance with the Wildlife and Countryside Act 1981) are present or absent within the buildings to be demolished and, if present, what the scale of the impact of the proposals would be on the species affected or whether mitigation is possible.

Furthermore, such a matter cannot be dealt with by Planning Condition under the current application (see Paragraph 99 of Circular 06/2005 and the Permission in Principle legislation itself).

The Arboricultural Impact Assessment report is however considered acceptable.

NNDC Environmental Health Officer: Objection

The proposed site is next to Bluebell Poultry Farm. Environmental Protection have received historic odour complaints from neighbouring properties related to this poultry farm. There are concerns regarding the placing of further residential buildings in close proximity to this site. This concern relates to both noise and odour. No assessments of these matters has been undertaken therefore Environmental Health Officer objects to the application.

It was requested that the following further information should be provided:

- Details of proposed foul sewerage and surface water disposal schemes
- External lighting
- Any proposed plant and machinery at the dwellings, including air source heat pumps
- Demolition methods
- Investigation and remediation of contaminated land

NNDC Planning Policy Officer: Objection

The housing policies in the Core Strategy remain up to date despite the misinterpretation reported in section 1 of the applicant's planning statement and reference to a successful appeal at High Kelling. The appeal referenced concerned whether High Kelling could be considered a sustainable settlement rather than a judgement on the Council's approach to the Countryside. The Council has many successful appeals that substantiate the current approach of limiting residential development in the Countryside to the uses set out in policy SS 2 unless significant material considerations indicate otherwise.

Whilst it is accurate that significant weight should be given to development of brownfield sites *within* settlements, as the applicant makes clear in their own planning statement, this site is not within the adopted settlement boundary of North Walsham.

The Council has not identified the site on its Brownfield Register as being suitable for residential development.

NNDC Housing Strategy: Objection

Being in the Countryside the site is only suitable for affordable housing, and even then only as a Rural Exception Scheme.

There are 540 applicants on the Council's housing needs list with a local connection to North Walsham or one of the adjoining parishes, and of these 190 have a Band A (the strongest) local connection. Therefore, there is a strong demonstrable local need which this proposal does not seek to address.

NNDC Design and Conservation Officer: No Objection

In addition to Melbourne House itself which is the specified listed building, the Conservation and Design Officer considers that the accompanying (now converted) outbuildings are '*accessories*' to the '*principal*' building and therefore form part of the whole listed entity. Therefore, any assessment of the impact of the development on the setting of the listed building needs to be made in the context of the group as a whole (accepting of course that it is the main house which has the greatest significance).

As regards the likely impact of the development, that would depend upon the form it takes. For example, a low-key, single-storey, pseudo barn conversion-style development would probably continue the existing hierarchy on site and would thus be unlikely to harm the overall setting of the group (particularly if we take into account the removal of the existing building on site). Conversely, if the proposal is to build a two-storey terrace which introduces overt residential/suburban character, and which would loom over the top of the existing former barns, this could potentially result in 'less than substantial' harm being caused to the setting of a designated heritage asset. It would then be a matter of weighing up the public benefits accruing from the scheme against the identified harm before making a judgement under para 196 of the NPPF.

Norfolk County Council as Minerals and Waste Authority: No Objection

While the application site is underlain by a Mineral Safeguarding Area (Sand and Gravel), it is considered that as a result of the site area it would be exempt from the requirements of Policy CS16-safeguarding of the adopted Norfolk Minerals and Waste Core Strategy.

RELEVANT 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 2: Development in the Countryside (*prevents general development in the countryside with specific exceptions*).

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

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

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

Policy SS 10 - North Walsham (*strategic approach to development in the Principle Settlement*)

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

Policy HO 3: Affordable housing in the Countryside (*specifies the exceptional circumstances under which affordable housing developments will be allowed in the Countryside policy area*).

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

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

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

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

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

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

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

Policy CT 2: Developer Contributions (*sets out the basis on which obligations and contributions can be secured to ensure mitigation is provided to address the impacts of development*)

Policy CT 5: The transport impact of 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*).

Material Consideration

National Planning Policy Framework (NPPF) 2019

This document sets out that the purpose of the planning system is to contribute towards achieving sustainable development. It also reinforces the position that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. As national policy the NPPF is an important material planning consideration which should be read as a whole, but the following sections are particularly relevant to the determination of this application.

Section 2. Achieving sustainable development

Section 5. Delivering a sufficient supply of homes

Section 6. Building a strong, competitive economy

Section 8. Promoting healthy and safe communities

Section 12. Achieving well-designed places

Section 15. Conserving and enhancing the natural environment

Section 16. Conserving and enhancing the historic environment

SITE DESCRIPTION

The North Norfolk Core Strategy (2008) has designated the town of North Walsham as a 'Principal Settlement'. However, the host site is located outside of the designated settlement boundary for North Walsham, the closest point being a group of dwellings and public house opposite on the western side of Bacton Road. The application site and adjoining land to the south of the application site is all located outside of the settlement boundary and therefore

within the 'Countryside' in policy terms as defined by Policies SS 1 and SS 2.

The site has access from Bacton Road that services an area known as 'Woodpecker Woods', with the first circa 50 metres characterised by mature trees and pleasant grass land. The entire area is subject to a Tree Preservation Order, TPO ref. 190954.

The existing warehouse building on the site is set back some 65 metres from Bacton Road. The development area is an enclosed part-walled compound currently occupied by a main warehouse building measuring some 30 metres wide and 35 metres in length with a ridge of some 8 metres in height. The building was last used in 2017 to store and refurbish antiques (B8 Use Class). Adjacent to this building is found a smaller single storey office building 7m x 7m with a flat roof.

The compound is enclosed in part by an attractive 2.5m to 3m high brick wall (North, East and West) and also a smaller 2.0m in height close boarded fence (South).

Melbourne House, a Grade II Listed two storey building, is situated to the south of the application site. A separate access serves Melbourne House and several residential outbuilding dwellings surrounding Melbourne House, opposite no.s 1 and 2 Bacton Road. In 2017 planning permission was granted to change the use of the main house to 1 dwelling and 3 flats, together with the conversion of various associated outbuildings / barns to 5 residential dwellings, Planning permission ref: PF/17/0756.

To the immediate north of the application site (less than 10 metres away) is Bluebell Poultry Farm which contains 6 large chicken sheds. Open countryside is found beyond that, and to the immediate east of the application site.

From Bacton Road, the site appears as a lush verdant wooded area with the existing commercial buildings obscured beyond the tree line. There is no footpath in this location and no room to walk on the steep banked verges either side of the road on what is a busy road with bends that marks the transition from a 30mph to a 60mph speed limit traveling away from North Walsham.

MAIN ISSUES FOR CONSIDERATION

The scope of the Permission in Principle application is limited to location, land use and amount of development. Many factors will combine to inform whether the proposed land use and amount of development in this location can be accommodated on the site, such as may be required to influence a successful layout, but the details of the development (such as appearance, landscaping, form and scale) are not matters for consideration at this stage, and are only assessed at the second 'Technical Details Consent' stage.

The planning considerations in relation to the 'Permission in Principle' stage relate to:

1. Principle of the development
2. Housing density
3. Dwelling mix and type
4. Highway safety and accessibility
5. Layout and design considerations
6. Noise and odour impacts on future residential amenity
7. Contaminated land
8. Ecology and biodiversity
9. Landscape and trees
10. Designated heritage assets
11. Material Considerations

12. Other matters

1) Principle of the Development

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990 require that all forms of application for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

Indeed, the NPPG is clear that decisions on whether to grant 'Permission in Principle' must be made in accordance with relevant policies in the development plan unless there are material considerations, such as those in the National Planning Policy Framework (NPPF) and national guidance, which indicate otherwise.

The Development Plan

The adopted Core Strategy sets out the broad spatial strategy for North Norfolk within Policy SS 1. It seeks to focus the majority of new development in the Principal Settlements, with more limited development in the Secondary Settlements. A small amount of development is to be focused on designated Service Villages and Coastal Service Villages to support rural sustainability. The remainder of the district is designated as Countryside where development is to be restricted to particular types of development, including those necessary to support the rural economy, provide renewable energy, or meet affordable housing needs 'in accordance with the Council's rural exception site policy' and the criteria set out within Policy HO 3.

Despite the time since adoption of the Core Strategy in 2008, the policies relating to designation of the Countryside and developments allowed within it are still consistent with the NPPF (most recently updated in February 2019), and would not be considered 'out of date'. Indeed, numerous Appeal decisions have identified that the Core Strategy, despite its age, is consistent with the principles of the NPPF.

As such, the development plan must remain as the starting point for decision making. Indeed, Paragraph 12 of the NPPF states "Where a planning application conflicts with an up-to-date development plan, planning permission should not usually be granted".

The application site is located outside the settlement boundary of North Walsham and therefore in the Countryside. The application deviates from the previous refused application on the same site only in that the current proposal consists of 4 dwellings, 1 less than before. The application still offers no affordable housing and therefore cannot be viewed as a 'Rural Exception Site'. As the application is for purely market housing, it fails when considered against Policy SS 1 and HO 3, and offers no affordable housing-related public benefits which can be weighed against this departure from the adopted development plan.

As a consequence, the application must be recommended for refusal as it represents a departure from the up-to-date adopted local Development Plan, unless there are sufficient material considerations to suggest otherwise. Material considerations are considered further in Section 11 below.

Overall, the application is a departure from Core Strategy Policies SS 1, SS 2 and HO 3, and fails to engage any relevant sections within the NPPF.

2) Housing Density

Permission in Principle applications concern location, land use and amount of development in determining the acceptability or otherwise of the principle of residential development.

Core Strategy Policy HO 7 (density) indicates that where proposals for residential development are acceptable in principle, they will be permitted provided that the development optimises the density of the site in a manner that protects or enhances the character of the area. Whilst this policy generally encourages housing to be developed at a minimum density of 30 dwellings per hectare, it is accepted that a lower density may be appropriate for exception sites in the Countryside to reflect local circumstances.

In this instance, the proposed scheme would represent a housing density across the site of 9 dwellings per hectare. With consideration given to the context of the site, its countryside location and surrounding densities, it is considered that the low density proposed would actually be acceptable in principle. Any approval would need to limit the quantum of development to the four dwellings proposed.

However, in order to represent an efficient use of land representative of the character of the area, in this location the development would need to be limited to the area within the walled compound and would be most appropriate if proposed in a layout which reflected the adjoining development.

Whilst this is indicated to some extent in the submitted layout, the form of development or the siting of dwellings is not something which can be given weight in the decision making process for this Permission in Principle; these factors can only be stated as an expectation for any subsequent Technical Details Consent application to be determined at that stage.

Officers therefore consider there are no objections to the proposed density resulting from up to four dwellings on the site.

3) Dwelling Mix and Type

Permission in Principle applications concern location, land use and amount of development in determining the acceptability or otherwise of the principle of residential development.

Unless it is demonstrated that a proposal will address a specific identified local need for sheltered / supported accommodation, Core Strategy Policy HO 1 requires that schemes of four dwellings must provide at least one which has no more than 70sqm internal floor space and no more than two bedrooms. The reason for this policy is to attempt to redress an existing imbalance of larger detached dwellings in the district.

The Plans indicate the development could include the following property sizes:

Plot 2: 5 person 3 bedroom dwelling 100m².

Plot 3: 4 person 2 bedroom dwelling 70m².

Plot 4: 4 person 2 bedroom dwelling 70m².

Plot 5: 5 person 3 bedroom dwelling 100m²

Of the four dwellings suggested, two have a floorspace of 70sqm with 2 bedrooms. The applicant has indicated that the dwellings proposed might all be bungalows. If the development were to be constructed like this, the proposal would be in accordance with Policy HO 1.

However, notwithstanding what might be indicated in the submitted layout, Members will note that the form of development or the sizes of dwellings is not something which can be given

weight in the decision making process for this Permission in Principle; these factors can only be stated as an expectation for any subsequent Technical Details Consent application to be determined at that stage.

As such, whilst informative of the applicant's future intentions, the proposed housing mix can be given no weight in the determination of this application for Permission in Principle.

4) Highways safety and accessibility

Permission in Principle applications concern location, land use and amount of development in determining the acceptability or otherwise of the principle of residential development.

When assessing the 2019 Permission in Principle application on the same site (PP/19/1307), Norfolk County Council as Local Highway Authority objected to the application in part because there were inadequate visibility splays being provided at the access junction, as well as there being inadequate off-site connections available for pedestrians / cyclists and the disabled.

Volume of traffic

In terms of the amount of development proposed, within this revised proposal, the volume of traffic using the access is proposed to be reduced (by virtue of capping the development at 4 dwellings rather than 5), and the application has provided a junction access plan showing how some visibility splays might be provided, and some improved connections to footpaths are suggested.

On reflection, the Highway Authority now considers that the size of the site and the theoretical and historic use of the site under its existing planning use could give rise to more traffic and use of bigger vehicles than would reasonably be expected from the proposed four dwellings. The Highway Authority considers that the appropriate parking, turning, servicing needs and visitor spaces can be accommodated on the site. The volume of traffic may therefore be considered acceptable in terms of being linked to the proposed amount of development.

Highway safety

The site's frontage alongside Bacton Road becomes increasingly steep as the embankment adjoining the road rises up by approximately 0.5m on the south side of the proposed access to approximately 2m high on the north side of the access. These embankments contain numerous existing hedge and tree specimens.

It remains the opinion of the Local Highway Authority that the site will still have slightly compromised visibility splays at the entrance to the site. However, in coming to the conclusion of a "slight compromise" it is understood that the Highway Authority are relying on the extent of clearance of vegetation at the junction as set out within the applicant's Arboricultural Impact Assessment & Method Statement which refers to suggested removal clearance of a large area of vegetation either side of the access and maintenance of the visibility splay. In reality, these works may not be possible in practice (notwithstanding whether it is desirable) due to the likelihood that proposed earthworks will need to be involved to create the access, and the protection afforded to the trees by the Tree Protection Order.

Whilst there are no significant grounds for lodging a highway safety objection in relation to the volume of traffic, the proposal may not actually be considered sufficiently safe for residential use to be acceptable in principle because of the access constraints and the fact that there are no detailed proposals provided in the application to demonstrate what the impacts of creating a 'safe enough' highway arrangement would be, nor proposals for mitigating those impacts.

At this stage, without the ability to impose planning conditions on any approval, it is not

considered possible to determine that there will be no unacceptable impact in highway safety terms for users of the development when considered against Core Strategy Policy CT 5 and paragraphs 108 and 109 of the NPPF, because there is no clear identification of the impact, nor a clear ability to secure mitigation which is likely to be necessary. As such the development is considered contrary to Core Strategy policies EN 2, EN 9, CT 2 and CT 5.

Accessibility to services and facilities

Whether the site offers a suitable location for the land use proposed depends in large part on whether there is appropriate accessibility to services and facilities, and public transport links.

The Local Highway Authority still has significant concerns in regard to the location of the site and its lack of links to public transport and compromised access to local services and facilities by means other than the private car. Relying on access via the proposed site entrance is considered unacceptable and unsafe given the lack of footpaths, poor visibility and the poorly aligned section of Bacton Road which are not conducive to encouraging pedestrian use.

In proposing to overcome this concern, the revised application has suggested there might be two methods of mitigation. Firstly, the application suggests it could include a pedestrian footpath through the site linking to the existing Melbourne House access to the south, opposite no. 1 and 2 Bacton Road. This would be through the adjoining land to the south, which lies outside the application site but is said to be in the applicant's control. Secondly, the application's Proposed Access Strategy plan indicates how a new footway might be provided within the public highway verge from the access to Melbourne House and along the east side of Bacton Road in front of the caravan park, terminating opposite the Blue Bell public house where there is reportedly a safe crossing point.

This issue of being able to access services and facilities and public transport links by means other than the private car formed a reason for refusal of the previous application for Permission in Principle. The Local Highway Authority clearly consider this to be a very finely balanced consideration, but ultimately have removed their objection to the proposal based on the newly-proposed route through the adjoining site, notwithstanding the Highway Authority's concerns around the ultimate connection to the public footpath network.

However, on closer examination it is also clear that this 'no objection' is only based on the assumption of the pedestrian links being provided, when in fact the application has made no offer of a legal commitment to ensuring that the route would be made available, and be suitable for use by pedestrians, cyclists and the disabled, nor demonstrated that either of the two proposals can be delivered.

Highways Officers have been very cautious about the ability to provide the proposed footway alongside Bacton Road, as this area has a number of constraints, including the existence of trees within and adjacent to the verge, the presence of utility poles and equipment, and a difference in levels encountered in this verge. Furthermore, the proposal would require pedestrians to cross the Bacton Road in the vicinity of a sharp bend with reduced visibility available to oncoming traffic.

The view of both Highway and Planning Officers is that this footway may well not be deliverable, may not be determined to be sufficiently safe if it were eventually found to be deliverable, and would in addition serve little or no beneficial purpose; it is at best aspirational. It may not be able to cater for people with restricted mobility, or pushchairs, and will almost certainly not be able to provide safe crossing options to link to the existing pedestrian network.

Without being able to demonstrate that mitigation is possible and feasible, and without offering to secure mitigation through a legal commitment binding land outside the application site, the application fails to satisfy Core Strategy policies SS 6, CT 2 and CT 5 and cannot be said to

comply with paragraphs 91, 102, 108, 109, 110 and 127 of the NPPF, and cannot be approved in principle.

Proposed speed reduction

The site access lies just to the north of the current 30mph speed limit on the approach into / from North Walsham. The application states that a Traffic Regulation Order could be undertaken to move the 30mph speed limit north of the site access.

Highway Authority consider that most vehicular traffic passing the site entrance will be at speeds of 39mph heading north, or 36mph southbound; these are the calculated '85th percentile' speeds. Because the site is outside the built up area and there are no clues to give the driver an awareness that development and an access lies ahead, the approach to the site is said to lack 'side friction' whereby the absence of development makes drivers less careful. In addition, the carriageway alignment makes it likely that speeds will increase.

The only way to increase 'side friction' and improve driver safety would be to bring development alongside the road, but to be effective this would need to cause unacceptable impacts on protected trees and the landscape setting of the site, and there is no overriding public benefit from the development to justify doing so.

Therefore, it is the considered opinion of the Highway Authority that moving the 30mph limit will be unlikely to have any measurable effect on the '85th Percentile' traffic speeds, and this mitigation has duly been disregarded by the Highway Authority as a mitigating measure.

Notwithstanding the views of Highway officers, if Members were to take the opposing view and endorse the suggested 30mph limit adjustment, there is a clear professional opinion that a Traffic Regulation Order would not be able to make a sufficient difference or improvement to safety to be able to pass the TRO process. Unlike a full application for planning permission, an application for Permission in Principle cannot impose Grampian-style conditions to require these works to be agreed and completed before development begins, and in the absence of the works being proven to be deliverable, it cannot be said that the proposed residential use of land is appropriate to the location. Furthermore, the applicant has not provided any legal commitment by way of proposing a planning obligation either through Unilateral Undertaking or Section 106 Agreement, to secure the funding of the TRO process, which cannot be required by planning condition at the Technical Details Consent stage.

Planning Officers therefore recommend that no weight should be attributed to the idea of extending the existing 30mph limit to encompass the site entrance. If it were considered to be necessary the proposal has very little likelihood of being deliverable, and so in this respect the application fails to satisfy Core Strategy policies SS 6, CT 2 and CT 5 and cannot be said to comply with paragraphs 108 and 109 of the NPPF, and cannot be approved in principle

5) Layout and design considerations

Layout and site constraints

Permission in Principle applications concern location, land use and amount of development in determining the acceptability or otherwise of the principle of residential development. On a constrained site various factors need to be considered which might inform the creation of an acceptable layout which in turn indicates the quantum or amount of development that is possible on the site.

The application suggests that development could offer a simple cul-de-sac form of development, similar to the outbuilding developments next to the converted listed building of Melbourne House to the south. As only matters of principle are being assessed at this stage

no elevation drawings have been provided.

The indicative / suggested layout raises no substantive concerns in terms of the ability of the site to provide access and parking for up to 4 dwellings. However, there are concerns with regards to the quantity and quality of outdoor amenity that would be available for the dwellings if proposed in the arrangement suggested, particularly given that some plots are suggested to be 5-person households. Of particular concern is the fact that one rear garden might be barely 6 metres in depth and 11 metres in width which would be undersized for a family residential dwelling house and contrary to the Design Guide for new residential developments.

Notwithstanding the concerns over amount of garden space that might be possible, the quality of amenity space for residents and the outlook and visual amenity from the properties must be considered very carefully because there are very unneighbourly uses adjoining the site which will create an unsatisfactory outlook and possibly a sense of overbearing development or unacceptable sense of enclosure.

Whilst the form of layout is to be determined at Technical Details Consent, no form of supporting information has been provided to suggest that these are not very real concerns which can be overcome.

There are various factors which need to shape the form of layout for any development on this site. As the site is covered by a Tree Protection Order across the whole site, all works should avoid harm to the trees, whilst preserving the woodland features is integral to the site's character and landscape setting. There is a preference towards using the previously-developed part of the site, and creating a footprint of development which would reflect the neighbouring residential conversion to the south, with a scale and character which fit comfortably against the adjoining residential uses and setting of the listed building (which might dictate a need for bungalows).

Taking all these constraints into account, it is considered that the site cannot provide an acceptable layout that will include appropriate levels of residential amenity to the amount (quantum) of development proposed. It would not be appropriate to consider approval of a scheme of 4 dwellings, and no evidence has been provided to suggest that even two dwellings could be proposed in a suitable arrangement.

At present therefore, the application for Permission in Principle is not able to comply with the requirements of Core Strategy Policies EN 2, EN 4, EN 8, EN 9 and EN 13 in terms of the land use, amount and layout of development in the quantity proposed.

Impacts on neighbouring residents

The indicative layout plan has suggested a layout and form of development which might be able to avoid causing an unacceptable impact on the amenity of the adjoining existing residential properties at Melbourne House (subject to detailed design and position of windows). However, this is largely dependent on the new development being single storey dwellings with no rooms in the roof space.

However, notwithstanding what might be indicated in the submitted layout, Members will note that the form of development or the sizes of dwellings is not something which can be given weight in the decision making process for this Permission in Principle; these factors can only be stated as an expectation for any subsequent Technical Details Consent application to be determined at that stage.

As such the possible lack of an impact on neighbouring dwellings should be given no weight in the determination of this application for Permission in Principle.

6) Noise and odour impacts on future residential amenity

Odour impacts on future residential amenity

The site is located directly adjacent to a poultry farm, with poultry buildings located in very close proximity to the site boundary (less than 10m away). Historically there have been reported odour issues from the poultry farm affecting residential properties in this particular area. An assessment of the impacts on the development from potential odour sources has not been provided.

Without a detailed assessment of the potential impacts of the operation of the poultry units on the application site it is not possible to determine whether the type of land use and amount of development proposed in this location could be accommodated on the site, in any form of layout, without giving rise to unacceptable impacts of odour on residential amenity. This is contrary to Core Strategy policies EN 13 and EN 4 and the expectations of the North Norfolk Design Guide 2008 and NPPF paragraph 127 (f).

Noise impacts on future residential amenity

In relation to the neighbouring poultry farm, an assessment of the impacts on the development from potential noise sources has not been provided with this application. Noise could be an impact from various activities at the farm, including machinery used on the farm site, ventilation equipment, as well as animal noise, and the impacts could differ depending on the times of operation. These are all factors which the applicant cannot control themselves. If development were to proceed and a statutory noise nuisance be received by the Council, measures may need to be taken by the farm which could curtail its activities, with associated impacts on the possible viability of that business and the jobs it provides.

Without a noise assessment to establish whether the activity of the farm may cause a nuisance to any proposed dwellings in close proximity to the boundary of the site, it is not possible to determine whether the type of land use and amount of development proposed in this location could be accommodated on the site without giving rise to unacceptable impacts of noise on residential amenity. This is also contrary to Core Strategy policies EN 13 and EN 4 and the expectations of the North Norfolk Design Guide 2008 and NPPF paragraph 127 (f).

7) Contaminated land

It is noted that a Permission in Principle application assesses location, land use and amount of development in determining the acceptability or otherwise of the principle of residential development. Further, the Permission in Principle route does not allow for conditions to be attached to any approval. As such an application needs to be able to demonstrate that it will be safe and suitable for residential use now, in light of the former industrial activities which took place.

Appropriate information needs to be provided now, rather than the Technical Details Consent stage, because it is necessary to understand the site's character and environmental conditions in order to assess whether a residential use can be placed on this site. If, for example, contamination is found to be so extensive or complicated, or especially prevalent in one area of the site, it could render residential use unacceptable, or require a different approach to the site's development to that which is considered here.

As no form of contamination assessment has been provided, it has not been possible to determine the suitability for residential use, the scope for mitigation (if indeed any is possible), or the general layout and design principles that might be needed (such as position of dwellings or provision of gardens). Therefore, it is not considered possible to determine whether the

type of land use proposed in this location is acceptable, nor is it possible to issue a Permission in Principle which establishes either a minimum or maximum number of dwellings, which the legislation requires. Given that no form of contamination assessment has been provided, it is considered the application must be refused as it is contrary to Core Strategy Policy EN 13.

8) Ecology and biodiversity impacts

Permission in Principle applications concern location, land use and amount of development in determining the acceptability or otherwise of the principle of residential development.

Core Strategy Policy EN 9 states that:

“All development proposals should:

- *protect the biodiversity value of land and buildings and minimise fragmentation of habitats;*
- *maximise opportunities for restoration, enhancement and connection of natural habitats; and*
- *incorporate beneficial biodiversity conservation features where appropriate.*

Development proposals that would cause a direct or indirect adverse effect to nationally designated sites or 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 development proposed includes the demolition of existing buildings on the site in order to construct new dwellings. No information has been provided to determine whether protected species are present or absent within these buildings or around the site, nor assess the scale of any impacts and whether any mitigation is either required or possible.

As such it has not been adequately demonstrated that demolition of the buildings on site or proposed redevelopment for residential uses would be an acceptable use in this location. Nor can the general layout and positioning of buildings be understood in order to inform what an acceptable quantum or amount of development would be needed to be acceptable.

Therefore, it cannot be considered that the permission in principle would avoid a direct or indirect adverse effect and unacceptable impact on biodiversity or protected species. This makes the proposal contrary to Core Strategy policy EN 9 and paragraph 175 of the NPPF. Furthermore, if protected species are likely to be on site, approving the application would be contrary to the requirements in law under the Wildlife and Countryside Act 1981.

9) Landscape and trees

Permission in Principle applications concern location, land use and amount of development in determining the acceptability or otherwise of the principle of residential development.

Core Strategy Policy EN 2 requires *‘development proposals to... 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....”.*

This is in addition to the protection and enhancement of biodiversity and natural habitats required under Policy EN 9. Both are relevant to this wooded site, the significance of which is noted through the Tree Preservation Order which applies to the whole site.

The application has included an Arboricultural Impact Assessment and Method Statement. This has been reviewed by Landscape Officers who have not objected to the proposals on the basis that any development must be in the suggested location shown, i.e. on the footprint of the warehouse building to be demolished. This will minimise the possible harm caused to the protected trees and woodland landscape and biodiversity nesting and feeding areas.

However, in respect of the works to create a suitable access, the submitted report states clearly that it has been undertaken on the basis that no works will be needed to the existing access. The tree implications report states:

“The access is existing and is currently of a hardcore surface with existing kerb line. It is not anticipated that any works to the existing access will take place and as such will have no effect on retained trees.”

This is in direct contradiction to the proposal, and is considered likely to have skewed the response from Landscape Officers. The submitted Proposed Access Strategy plan clearly shows the intended clearance of a large swathe of vegetation either side of the existing junction and replacement with turf. This includes removal of at least two trees, including possibly the site’s largest tree at the corner of the access, and possibly the need to clear mature trees from the north radii corner. This would be contrary to the Tree Protection Order and loss of trees which make a significant contribution to the existing setting and landscape value of the site. Without the clarity between the two proposals, the development cannot be said to avoid an unacceptable adverse impact on the trees or landscape setting and character of Bacton Road.

In this proposal the suggested siting and layout which has the development constrained to being within the footprint of the warehouse building, the findings relating to existing shadow patterns of the nearby trees and the effect they could have on future residential amenity of the proposed dwellings are considered acceptable. Essentially the report concludes there is scope within the developable area to ensure a layout will be able to avoid tree removal and unacceptable shadow affecting future residential amenity of the proposed dwellings if they are constructed in the area shown.

However, notwithstanding what might be indicated in the submitted layout, Members will note that the design form, siting and layout and the scale of dwellings is not something which can be given weight in the decision making process for this Permission in Principle; these factors can only be stated as an expectation for any subsequent Technical Details Consent application to be determined at that stage.

As such, the lack of definitive evidence that the development would avoid an unacceptable impact on landscape and trees and the habitat value at the site means that the proposed residential use of the site is unacceptable to be approved as Permission in Principle, being

contrary to Policies EN 2 and EN 9 of the Core Strategy and NPPF paragraph 170.

10) Designated heritage assets

The site is located adjacent to a Grade II Listed Building, Melbourne House, to the south east. In exercising the legal duties under section 66 of the Planning (Listed Buildings & Conservation Areas) Act, 1990, the decision maker has a duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

The listed building and its setting is considered to include all the now-converted outbuildings as these are considered to be 'accessories' to the 'principal' building and form part of the listed entity. Therefore, any assessment of setting needs to be made in the context of the group as a whole, accepting of course that it is the main house which has the greatest significance. As such, if the proposed new buildings are proposed to be single storey they would be likely to be less noticeable in the skyline than the existing unattractive industrial warehouse building and the various outlying buildings on site.

Such a view is heavily caveated by the fact that the scale and form of any dwellings would be considered only at the Technical Details Consent stage, but there is a general acceptance that low-profile residential development in the manner and layout suggested would not be likely to harm the character and appearance of the adjoining Grade Two Listed Building or ancillary neighbouring structures.

However, notwithstanding what might be indicated in the submitted layout, Members will note that the form or the scale of dwellings is not something which can be given weight in the decision making process for this Permission in Principle; these factors can only be stated as an expectation for any subsequent Technical Details Consent application to be determined at that stage.

As such the possible lack of an impact on heritage assets should be given no weight in the determination of this application for Permission in Principle.

11) Material Considerations

With regards to any material considerations supporting the application, these are assessed in turn below.

Material Consideration 1 - Five-year land supply

The applicant has sought to contend the 2019 refusal by suggesting that there is not a current 5 year housing land supply in the District. However, the most recent NNDC statement, 'Five-Year Supply of Housing Land - 2019 - 2024' published in April 2019 confirms there is a five-year land supply of housing, equating to a 5.73-year land supply. Therefore, the Councils position is that the housing supply policies are up to date and the adopted Core Strategy should take primacy when deciding this application.

Material Consideration 2 – Comparisons to a High Kelling Appeal Decision

The applicant has compared this proposal to a 2016 appeal decision, (APP/Y2620/W/16/3152281) at High Kelling, for the 'Erection of Two Dwellings'. The applicant believes the appeal case demonstrates that new dwellings in a village with fewer facilities than North Walsham provided for a sustainable location for those new dwellings which in the

applicant's opinion sets a precedent for the current Permission in Principle' application.

Officers disagree with this position because the appeal considered whether High Kelling could be considered a sustainable settlement rather than providing any form of judgement on the Council's approach to developments within the designated Countryside. There were other material considerations at play, including the fact that development at the High Kelling site was considered by the Inspectorate to provide a benefit to the immediate surroundings and adjacent neighbours, whilst being surrounded by established residential development on all sides, within the context of a village that is entirely within the Countryside. This not the case with the proposed site which suggests a different scale, density and pattern of development which is not comparable to that of the High Kelling scheme, notwithstanding the fact that this application site is distinctly outside the adopted and specifically-defined settlement boundary for a Principal Settlement.

In practice, the application site has a far more rural character than the urban area of North Walsham to the South. With the exception of the converted listed building, the site is surrounded by buildings and uses commonly found in the Countryside such as holiday accommodation, woodland, farming activities and agricultural buildings and the existing warehouse. The site is detached from the northern part of the residential area of the town, having the impression, and character, of being in the countryside separated from the urban expanse of North Walsham.

Therefore, it is considered that no weight can be given to this appeal decision on the basis that the circumstances are so markedly different.

Furthermore, in contrast to the applicant's choice of appeal decisions, the Local Planning Authority has won recent appeal decisions for residential development outside the settlement boundary North Walsham, in particular appeal ref., APP/Y2620/W/16/3159401 – (Site adjacent to Esther House, Anchor Road, Spa Common, North Walsham) and appeal ref. APP/Y2620/W/18/3193438, (Land between Aylsham Road and Greens Road, North Walsham). Both of which were dismissed for reasons which included being in effectively unsustainable Countryside locations as defined by Policy SS 1 of the North Norfolk Core Strategy 2008 and not meeting the criteria for development in the Countryside set out by Policy SS 2.

Material Consideration 3 – Paragraphs 77 – 79 of the National Planning Policy Framework

Paragraph 77 of the NPPF states that:

“In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.”

The NPPF goes on to provide in Annex 2, a definition of a 'rural exception site' as:

“Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding”.

This is a policy NNDC has been practicing and it is consistent with the thrust of Core Strategy

Policy HO 3.

However, the proposal does not respond to local needs as there is no affordable housing proposed and the application has not offered to ensure that the development will be restricted to 'accommodating households who are either current residents or have an existing family or employment connection'. Market housing should only be considered in this location if it were demonstrated to be the minimum amount necessary to facilitate the provision of defined affordable housing which is specifically-restricted to meet identified local needs on a Rural Exception Site. There is a clear local need for housing that could be accommodated on rural exception sites, but the applicant has made no proposal to address that need. Therefore, the proposal fails against Paragraph 77 of the NPPF.

Paragraph 78 of the NPPF states:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby."

With regards to this paragraph of the NPPF, the applicant has highlighted the fact that the host site is close to the adopted Settlement Boundary of North Walsham. The intention of paragraph 78 is clearly towards policy-making, and in respect of rural communities and villages to provide housing to enhance or bolster the vitality of a rural community, perhaps where they are lacking facilities or those facilities are threatened. That is not the case in this instance where the community impacts may even be considered to be detrimental.

Overall, the proposal does not offer sufficient material benefits in terms of maintaining or enhancing vitality of this community. As a consequence of these assessments the application is considered to represent an unsustainable development in the Countryside in contradiction to the intent of Paragraph 78 of the NPPF.

Paragraph 79 of the NPPF requires development to avoid isolated homes in the Countryside.

The Court of Appeal, upholding the decision of the High Court, has clarified in the Braintree judgement that 'isolated' means "a dwelling that is physically separate or remote from a settlement"; the judgement clarifies that being 'isolated' is not related to 'access to services' but proximity to other dwellings. It also confirmed that access to services by sustainable means is to be taken in the context of other policy considerations such as supporting the rural economy. As the site adjoins half a dozen or so residential dwellings within the listed building conversion to the south, it is not considered to be physically isolated when interpreting Paragraph 79, but that is not to say that the application has the appropriate level of access to services to make it a sustainable and suitable location for residential development.

Given that paragraph 79 of the Framework is not engaged it is not considered necessary for the development to demonstrate compliance with any of the criteria required to justify an otherwise-isolated dwelling (such as being of exceptional design quality).

Material Consideration 4 – Use of Previously Developed Land

The applicant has suggested that weight should be given to fact that the site represents beneficial use of a brownfield site / 'previously developed land'.

The NPPF defines 'previously developed land' as: "*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be*

assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.”

It is accepted that parts of the site can be considered to be “previously developed” (or “brownfield”) land. However, Paragraph 118 of the National Planning Policy Framework makes clear that LPAs should only give substantial weight to the value of using ‘suitable’ brownfield land for housing when the previously developed land is *within settlements*.

As the site lies in the ‘Countryside’ for policy purposes, it is consequently outside of any designated settlement. Furthermore, the site is not being promoted for residential development through either the Council’s Brownfield Register or any emerging site allocations. Further, the site has many constraints which lead Officers to consider the site is not ‘suitable’ brownfield land for residential development under the terms of Paragraph 118 of the NPPF, not least is the fact that the site is located immediately adjacent to an active Poultry Farm, and is in active use (or at least able to be used) for employment purposes.

Therefore, whilst the site can be considered ‘previously developed land’ this can only receive very limited and minimal weight in the planning balance due to it being both outside a settlement, and therefore a departure from the adopted development plan, and an ‘unsuitable’ brownfield site in NPPF terms meaning that paragraph 118 of the NPPF cannot be engaged.

Officers consider there are no material considerations to which sufficient weight could be attributed to outweigh the conflict with the Core Strategy or justify the departure from the local development plan.

12) Other Matters

The applicant has requested that Development Committee visit the application site prior to making their decision on the application. This is also supported by Cllr Seward who supports the application. The applicant makes this suggestion to allow Members the chance to ‘see for themselves’ and appreciate the relationship with the active Poultry Farm next door, in lieu of providing the necessary noise and odour reports required for Environmental Health officers to make their full assessment.

Officers believe this to be unnecessary as the scientific details that would be obtained from such reports would be far more detailed and investigative than can be gained from just visiting the application site and would indicate more clearly the likely impacts over an extended period of time. Nevertheless, it should be noted that Members can choose to visit the site independently before making a decision if they so wish.

CONCLUSION

As required by planning law, and reiterated by the National Planning Policy Framework (NPPF), this application for Permission in Principle for the demolition of the existing buildings on site and the development of four dwellings should be determined in accordance with the development plan, and where proposed development conflicts with the development plan, it should be refused unless material considerations indicate otherwise.

Location – Up to four dwellings are proposed on land located outside of the established settlement boundary of North Walsham and on land designated as Countryside under Policy SS 1 of the adopted Core Strategy. Policy SS 2 prevents new market-led housing development in the Countryside apart from certain limited exceptions which do not apply in this case. The location of the proposed dwellings does not therefore accord with the

requirements of the up to date Development Plan policies most important for determining the application and the NPPF paragraph 11 presumption in favour of sustainable development is not engaged.

Land Use – Whilst certain forms of residential development may be acceptable, as set out above, the proposed development conflicts with Core Strategy Policies SS1 and SS 2, policies which are most important for determining the application.

Amount of Development – It has been identified that there are a range of constraints which will impact on the amount of development that can be accommodated on the site.

Notwithstanding the suggested means to mitigate highways concerns, there remain outstanding issues which have not been demonstrated to be able to be overcome by the development. Whilst, in highway terms, the amount of development proposed can be accepted, it is far from clear that the necessary safe access can be achieved without unacceptable detrimental impacts to protected trees and landscaping. Neither are there any firm proposals to demonstrate that suitable accessibility by means other than the car is either deliverable or sufficiently safe, and the suggestion to amend the local speed limit has no prospect of success.

Given the existence of a poultry farm on a site directly adjacent to the proposed development, insufficient information has been provided in relation to noise and odour to demonstrate that a residential use of the site is suitable or whether the amount of development proposed is achievable without giving rise to unacceptable impacts on residential amenity. Similarly, no evidence has been provided to suggest that residential use in this location will be acceptable given the site's existing and former industrial and commercial uses and activities. All three aspects mean the scheme is contrary to Core Strategy policies EN 4 and EN 13 and paragraph 127 of the NPPF.

In terms of layout and design, various factors combine to determine that the applicant's suggested location of the residential units may be the only suitable location within the site. However, the neighbouring uses and the orientation of buildings when trying to accommodate the quantum of development proposed will most likely create an unacceptable living environment for future residents. Further, such measures as may be necessary to overcome these constraints may result in creating a development which cannot be readily accommodated within the site, given the need to protect and preserve the landscape setting, habitat, protected trees and adjacent heritage assets. As such the development would be contrary to Policies EN 2, EN 4, EN 8, EN 9 and EN 13, and the Residential Design Guide and paragraphs 127 and 170 of the NPPF.

Finally, without providing any details relating to protected species' use of the site and its existing buildings, or whether any mitigation measures are necessary and can be proposed, it has not been adequately demonstrated that residential development of the site would be an acceptable use to avoid an adverse impact on protected trees, landscape assets, biodiversity or protected species, contrary to Core Strategy policies EN 2 and EN 9, paragraph 175 of the NPPF and the duties placed on the Council under the Natural Environments and Rural Communities Act 2006.

Without the ability to impose conditions on any approval, and in the absence of any proposed legal agreement to deliver some of the proposed features, it is not possible to secure appropriate mitigation through the Permission in Principle application route.

It is considered that there are no material considerations or public benefits which are sufficient to outweigh or justify this clear departure from the adopted and up-to-date local development plan.

RECOMMENDATION - Permission in Principle should be refused

Reasons for Refusal

1. 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. A Supplementary Planning Document Residential Design Guide was also adopted in 2008. The National Planning Policy Framework was published in March 2012 and subsequently revised and updated in February 2019. 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
SS 6 – Access and Infrastructure
HO 3 - Affordable Housing in the Countryside
EN 2 - Protection and Enhancement of Landscape and Settlement Character
EN 4 – Design
EN 8 – Protecting and Enhancing the Historic Environment
EN 9 - Biodiversity and Geology
EN 13 – Pollution and Hazard Prevention and Minimisation
CT 2 – Developer Contributions
CT 5 – The Transport Impact of New Development

The proposal is contrary to the provisions of the adopted development plan. In particular:

2. **Location** - The proposal is for residential development on a site which is located on land designated as 'Countryside' under Policy SS 1 of the adopted Core Strategy. Policies SS 1 and SS 2 seek to prevent new housing development in the Countryside apart from certain limited exceptions which do not apply in this case. Furthermore, the principle of such a development in the designated 'Countryside' area falls outside the scope of adopting a more flexible approach to proposals for new housing in rural communities or on previously developed land as set out within the National Planning Policy Framework (NPPF) Paragraphs, 77, 78, 79 and 118.
3. The proposed development is not able to demonstrate that the proposed off-site facilities for improving pedestrian access will be secured, nor made available to and sufficiently safe and convenient for use by either pedestrians or cyclists or people with disabilities or limited mobility, nor provide a suitable safe connecting link with existing footway network to enable access to public transport and local services and facilities by means other than the private car. The proposal is therefore unable to demonstrate that it will comply with sustainability objectives seeking to locate residential development where safe access to local services by foot, cycle and public transport is available, contrary to Core Strategy Policies SS 6, CT 2 and CT 5 and National Planning Policy Framework paragraphs 91, 102, 108, 109, 110 and 127.
4. **Land Use** - The proposal fails to provide any affordable homes in this Countryside location and so fails to address specifically identified local housing needs, and fails to provide evidence or justification for the proposed under-supply of affordable housing, contrary to the requirements of Policies SS 1, SS 2 and HO 3 of the adopted Core Strategy and Paragraph 77 of the NPPF.

5. The application has not provided an Odour Assessment or alternative supporting evidence to inform the development proposals and demonstrate that a residential use is suitable in this location, given the existing commercial and agricultural uses on the adjacent sites. It therefore cannot be concluded that any residential use on this site can be achieved which will be able to provide an acceptable standard of residential amenity to all future occupiers, particularly so given there are known odour nuisance issues in the vicinity which lie outside the applicant's control, leading the development to be contrary to Core Strategy Policies EN 13 and EN 4 and the expectations of the North Norfolk Design Guide 2008, together with paragraphs 127(f) and 180(a) of the NPPF.
6. The application has not provided any Noise Assessment or alternative supporting evidence to inform the development or demonstrate that a residential use is suitable in this location, given the existing commercial and agricultural uses on the adjacent sites. It therefore cannot be concluded that any residential use on this site can be achieved which will be able to provide an acceptable standard of residential amenity to all future occupiers, without compromising the activities of adjoining existing businesses, contrary to Core Strategy Policies EN 13 and EN 4 and the expectations of the North Norfolk Design Guide 2008, together with paragraphs 127(f) and 180(a) of the NPPF.
7. The application has not provided any Contaminated Land Assessment or alternative supporting evidence to inform the development or demonstrate that a residential use is suitable in this location, given the existing and previous commercial and industrial uses of the site and activities within the curtilage of the existing building. It therefore cannot be concluded that any residential use on this site can be achieved which will be able to provide an acceptable and safe standard of residential amenity to all future occupiers, contrary to Core Strategy Policy EN 13, together with paragraphs 127(f) and 180(a) of the NPPF.
8. Insufficient information has been provided to demonstrate whether there is any likely presence of protected species within the site, including any use of the existing buildings proposed to be removed, nor whether any mitigation measures are necessary or can be accommodated within the development. It has not therefore been adequately demonstrated that demolition of buildings and residential redevelopment of the site would be an appropriate use of the land in this location and able to avoid a detrimental impact on biodiversity or protected species, contrary to Core Strategy Policies EN 2 and EN 9 and paragraph 175 of the NPPF.
9. The inconsistency between proposed access strategy designs and supporting evidence concerning the impact on trees in relation to the indicative form of development means there is a lack of definitive evidence that the development will be able to avoid an unacceptable impact on the site's landscape setting and the protected trees and habitat value of the site. As the proposed use demands a particular arrangement for achieving safe access into the site, this means that the proposed residential development of the site cannot be considered to be an appropriate use in this location without further investigation, and so is contrary to Core Strategy Policies EN 2 and EN 9 and paragraph 170 of the NPPF.
10. **Amount of Development** - The application has failed to demonstrate that appropriate visibility splays can be provided at the junction of the access to the site with the County highway whilst avoiding unacceptable adverse impact to the protected trees within the site and the landscape setting of the site and the approach and character of Bacton Road. No mitigation measures have been provided, contrary to Core Strategy Policies EN 2, EN 9, CT 2 and CT 5 and National Planning Policy Framework paragraphs 108 and 109.

11. There are various factors which constrain development of the site and will need suitable consideration to ensure any amount of development can present an acceptable layout and siting of dwellings within the site. No evidence has been provided to demonstrate that development can avoid unacceptable adverse harm to protected trees and the woodland character and landscape setting of the site, or the setting of the neighbouring listed building and its associated listed outbuildings, whilst also providing suitable levels of residential amenity including relationship to adjoining uses, outlook and external amenity space whilst maintaining a scale and character of development which fit comfortably against the adjoining residential uses without detriment to their amenity. As such the proposed use and amount of development in the proposed location is considered contrary to Core Strategy Policies EN 2, EN 4, EN 8, EN 9 and EN 13 of the adopted Core Strategy and the expectations of the North Norfolk Residential Design Guide Supplementary Planning Document.

12. It is considered that there are no material considerations or public benefits which are sufficient to outweigh or justify this clear departure from the adopted and up-to-date Development Plan.