

Joint Core Strategy for Broadland, Norwich  
and South Norfolk, Broadland Part of  
Norwich Policy Area Examination

Statement Responding to Additional  
Information submitted on 21 June 2013

on behalf of Landstock Estates Ltd  
Landowners Group Ltd and United Business and Leisure Ltd

## **1.0 INTRODUCTION**

1.1 This Statement has been prepared on behalf Landstock Estates Ltd, Landowners Group Ltd and United Business and Leisure Ltd to respond to the Greater Norwich Development Partnership's (GDNP) further submissions in support of the emerging part Joint Core Strategy. It responds to the following matters:

- The proposed Flexibility Policy (MM2) : Section 2;
- The revised Housing Land Supply Position and Trajectories: Section 3;
- The Councils Response to Barton Willmore's Supplementary Response to Q6 Matter 1 (ref DV6): Sources of Alternative Supply of 7,000 dwellings (Ref DV19): Section 4;
- The LIPP Modifications (MM7): Section 5;
- Conclusion: Section 6.

1.2 It should also be noted that further evidence was submitted by Barton Willmore on 21 June 2013 and is referenced as DV24 and DV25.

## 2.0 THE FLEXIBILITY POLICY

- 2.1 We welcome the introduction of a new policy as set out as Main Modification 2 (MM2). However, we question the appropriateness of a combined policy that includes both the 'presumption in favour of sustainable development' model policy and the 'flexibility' policy within its wording. In the interest of transparency and to avoid confusion and implementation, we recommend that the two policies should be separate.
- 2.2 We agree with the principle of including flexibility wording within policy. However, we do not consider the latter part of MM2 (i.e. that part of new Policy 21 addressing flexibility) is sufficient or appropriately worded in order to trigger the implementation of the delivery of housing in alternative locations. The principal issues relate to:
- a) The Trigger; and
  - b) The Action.
- a) The Trigger
- 2.3 We do not consider that a 3-year wait to monitor, and then decide whether to implement the alternative strategy is appropriate. It is not a proactive approach to ensure the delivery of the overall housing target within the plan period. NPPF para 14 is clear that Local Plans '*should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change*' (our underline). These rapid changes, currently include, the absence of a deliverable 5-year supply of land (as further explained in Section 3 of this Statement), and, to which a NPPF 20% NPPF buffer should apply within the NPA. Furthermore, the likely timing of the delivery (or not) of the NDR will be known within the next 12-18 months (as evidenced in para. 19 of the GNDPs response statement DV19). This is the basis for Barton Willmore's alternative flexibility policy with specific triggers.
- 2.4 A 3-year wait to 2016/17 represents an unnecessary delay to the delivery of housing and does not represent sufficient flexibility to adapt to rapid change in an area which has had a chronic history of failure to deliver in the past and against the current plan requirements.
- 2.5 It is recognised that the GNDP has sought to apply a review trigger of 1,000 homes or a 10ha employment deficit at 2026. However, as detailed within Barton Willmore's previous evidence, the housing trajectories still seek to demonstrate that the housing targets will be met by 2026 simply by increasing the annual average of delivery. It is expected that this

trend could continue within Annual Monitoring Reports (i.e. the AMR may seek to demonstrate that it is within 1,000 dwellings after the 3 year window) and therefore ambiguity will remain as to whether the focussed Local Plan (i.e. The Action), is necessary and will actually take place.

2.6 We therefore consider that the current trigger, as drafted in MM2, is too vague and will not provide certainty over the need to implement the alternative strategy. We consider a further, more specific trigger, also needs to be identified (such as the timing of/if approval of the NDR) as well as the 1,000 home or 10ha employment trigger.

b) The Action

2.7 It is recognised that the GNDP consider that if the NDR fails to be delivered, it will require a review of the whole JCS (both the adopted and remitted parts). This is reflected in part a) of the proposed new policy. However, this scenario suggests that any implementation of a focussed local plan will in effect, 'be put on hold', until a new overall Local Plan is in place. Experience suggests this can take a significant number of years and therefore a policy vacuum would occur if this situation arises. Part a) of the wording of MM2 is therefore not appropriate.

2.8 In addition, part b) of the proposed new policy is, in effect, already implementing an alternative strategy. In order for this scenario to occur (that is, alternative locations are meeting the lack of delivery in Broadland), it will have been necessary for departure applications/appeals to have been permitted by the Councils. In order for these departure applications to be justified within the current planning policy context, a lack of housing land supply will have needed to have been demonstrated. This position would therefore be recognition that the spatial strategy has not delivered. We therefore question the appropriateness of part b) of the proposed new policy, on the basis that this principle is reflected in the earlier parts of the proposed policy (relating to presumption in favour of sustainable development) and covered within the NPPF.

2.9 We consider that the currently drafted policy (MM2) is not appropriate and it is evident the GNDP is seeking to dilute its effectiveness. In the light of the Council's evidence base relating to the housing trajectories (in that it clearly considers that it will meet its housing requirements), we question why the Councils are diluting the policy, when it readily considers that it will not be required in any event. What is the demonstrable harm to the Councils, and the spatial strategy, if the policy is strict? In applying a strict policy, would it not only seek

to ensure best endeavours are made by the Councils to ensure the deliverability of the spatial strategy in a proactive way?

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### 3.0 THE REVISED HOUSING LAND SUPPLY POSITION AND TRAJECTORIES

i) The Correct Area to Assess Housing Land Supply

- 3.1 The GNDP has sought to suggest (under section 1.4 of DV21) that sites in the NPA will be ***'considered individually, so that the release of additional sites addresses the specific areas of underperformance and does not undermine the overall strategy'***.
- 3.2 This statement implies that where any departure application has been submitted, it will be determined on the basis of its specific areas performance. For instance, this would mean that if a site was being considered in South Norfolk, the delivery of sites in Broadland and Norwich would not be taken into account (or vice versa). This, in practice, is not the case and is not how the 5-year supply in the NPA is assessed. There is no single authority breakdown.
- 3.3 The correct and appropriate area to assess the supply of housing is the NPA, as a whole, and not on an individual authority basis of what each has delivered within its own part of the NPA.
- 3.4 This position has operated since the time of the first Norfolk Structure Plan (circa 1978) and has been ongoing ever since. This has been confirmed as the correct approach within a number of recent appeals, namely:
- Yarmouth Road, Blofield, Norwich (Appeal Ref: APP/K2610/A/12/ 2177219 – March 2013) - Doc DV8;
  - Townhouse Road, Costessey (Appeal Ref: APP/L2630/A/12/2170575 – August 2012) – **Appendix 1;**
  - Land North of Norwich Common, Wymondham (Appeal Ref: APP/L2630/A/09/2097802 – November 2009) – **Appendix 2.**
- 3.5 Paragraph 45 of the Blofield decision (DV8) confirms ***'The Appellants had also calculated figures for housing land supply for that part of the NPA in Broadland and for Broadland as a whole. Whilst the Council maintained that it was not necessary to provide separate assessments in this way, it did not dispute the figures produced'***. (our underline). This is clear evidence that Broadland Council considers as recently as 6 months ago, there was/is no requirement to assess anything other than the NPA housing land supply figure.

- 3.6 Paragraphs 6-11 of the Townhouse Road decision are clear that there is not a 5 year supply of land and states ***'In any event even if the sites that SNDC has identified for possible early release came forward they would yield insufficient housing to meet the identified deficit. So whilst it is acknowledged that SNDC is being pro-active it remains the case that there is a serious shortfall of deliverable housing sites which is unlikely to be met in the next 5 years either within the NPA as a whole or within the SNDC part of the NPA'***.
- 3.7 Paragraph 9 of the Land North of Norwich Common SoS Decision letter (**Appendix 2**) states ***'The Secretary of State agrees with the Inspector's reasoning and conclusions on housing land supply, as set out in IR188-195. He agrees that there is an under-supply of deliverable sites for housing in the Norwich Policy Area and that where there is less than 5 years supply, planning applications for housing should be considered favourably, having regard to the policies in PPS3'***.
- 3.8 Paragraph 188 of the Inspector's Report confirms that ***'The sub-regional policy NR1 makes it clear that it is the requirement for 33,000 dwellings in the NPA between 2001 and 2021 which the 5 year supply is tested against for development control purposes'***. Paragraph 191 of the Inspector's Report continues ***'The requirements for the NPA are spread across the 3 districts so achievement of a continuous 5 year supply is not dependent solely on action by South Norfolk in bringing forward appropriate sites'***.
- 3.9 It is an incorrect approach to disaggregate each Local Authorities contribution to the NPA for assessing the supply of housing, as this would not assist in meeting the needs of the area (i.e. the NPA). The NPA is recognised as the key economic driver for Norfolk and is the strategic market area. This forms the basis for the need for a Joint Core Strategy which was recognised in the now revoked East of England Plan. We therefore consider that the GNDPs statement in section 1.4 is misleading.

ii) The 5 Year Housing Land Supply Position

3.10 We note that the Councils have updated the Housing Land Supply position to include 2012/13 figures. Completions for the last monitoring year were 881 dwellings. On this basis, we calculate that the shortfall in housing in the NPA is now some 4,303 dwellings at March 2013.

**Table 3.1 JCS Housing Land Supply Deficit**

Year	Completions	JCS NPA Requirement	Deficit
2008/09	1,193	1,825	632
2009/10	923	1,825	902
2010/11	910	1,825	915
2011/12	915	1,825	910
2012/13	881	1,825	944
<b>Total 2008-2013</b>	<b>4,822</b>	<b>9,125</b>	<b>4,303</b>

3.11 Table 3.1 demonstrates that not only has there been a significant failure to meet the annual housing requirement in the NPA, but there has also been a persistent failure in the delivery of housing in the NPA in the current plan period (the last 5-years).

3.12 The GNDP has calculated, within DV21, the revised five year requirement from 2014/15 – 2018/19 as 11,318 dwellings (2,264 dpa). This reflects a 5% NPPF buffer and spreading the deficit across the remaining plan period (13 years). The Councils' own evidence recognises that it has a supply of 9,870 dwellings which represents only 4.58<sup>1</sup> years of land – a shortfall of 1,448 dwellings.

3.13 We consider that the NPA is a 20% NPPF buffer area and that the shortfall should be rectified within the next 5-year period. This would demonstrate a proactive and rapid response to the ongoing shortfall and persistent under delivery of housing to meet the current needs. On this basis, we consider the 5-year requirement from 2014/15 – 2018/19 as 16,114 dwellings and the supply of 9,870 dwellings represents only 3.06yrs supply (a deficit of 6,244 dwellings).

<sup>1</sup> We consider this figure is a miscalculation and should read 4.36 yrs (9,870/11,318 x 5yrs = 4.36)



3.14 For the purposes of this Statement, we have not sought to assess in detail the supply of land identified within DV21 Appendices 1-8 (9,870 dwellings). We have therefore assumed this figure as the basis for our calculations and consider it a 'best case' supply scenario for the NPA in terms of available supply at March 2013. However, a health warning should be applied to the supply of sites, namely:

- The introduction of windfall provision and whether an appropriate evidence base is present to justify their inclusion<sup>2</sup>;
- Site discrepancies, overall capacity and potential delivery rates<sup>3</sup>;
- Viability/Deliverability issues of sites within Norwich City;
- Historic failure of meeting the annualised and 5-year JCS requirements; and
- Overall deliverability assessments of sites in Broadland and South Norfolk.

3.15 Table 3.2 below, sets out for ease of comparison, the GNDP position compared with Barton Wilmore's position in respect of the 5-year housing land supply.

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<sup>2</sup> This includes specifically, Norwich City and Topic Paper 13 whereby windfalls are 'in addition' to the trajectories.

<sup>3</sup> For instance the inclusion of King Street, St Annes Wharf (437 dwellings) (page 15 of DV21) permitted in March 2006 and yet to commence. On 12 June 2013, Norwich cabinet Members approved the 'South City Centre Vision and Investment Plan', which identifies this site as coming forward for around 94 dwellings.

**Table 3.2 JCS NPA 5 Year Housing Land Supply Assessment Comparison**

<b>GNDP Approach</b>	<b>5 YEAR HOUSING LAND SUPPLY ASSESSMENT APRIL 2013</b>			<b>BW Approach</b>
32,847	Total Plan Requirement 2008 – 2026			32,847
1,825	JCS Annual Requirement			1,825
9,125	Requirement April 2008 – March 13 (1,825dpa x 5yrs)			9,125
4,822	Completions April 2008 - March 2013			4,822
4,303	Shortfall since Plan Period began (2008)			4,303
9,125	JCS 5 year requirement 2014/15 – 2018/19 (1,825dpa x 5yrs)			9,125
1,655	4,303/13 years x 5 years	Inclusion of identified Shortfall	All in 5 years	4,303
10,780 (2,156pa)	9,125+1,655	Revised 5 year Requirement	9,125+4,303	13,428 (2,686pa)
539	5%	Plus NPPF Buffer	20%	2,686
<b>11,319 (2,264pa)</b>	<b>10,780+539</b>	<b>Revised Total 5-year Requirement 2014/15 – 2018/19</b>	<b>13,428+2,686</b>	<b>16,114 (3,223pa)</b>
<b>9,870</b>	<b>Supply of Housing</b>			<b>9,870</b>
1,449	11,319 - 9,870	Shortfall in Supply	16,114-9,870	6,244
<b>4.36</b>	<b>9,870/2,264</b>	<b>Supply in Years</b>	<b>9,870/3,223</b>	<b>3.06</b>

3.16 DV21 Table 2 also seeks to demonstrate how the 5-year supply position will be improved if allocations contained in emerging documents come forward and are taken into account. These trajectories cannot be relied upon as no status can be attached to these emerging documents. South Norfolk and Broadland have not progressed these documents to any submission stage, nor have they been tested at public examination and therefore have no weight in the context of including them in any 5-year supply calculations.

3.17 Furthermore, based on the Barton Willmore approach, the supply of housing including all these emerging sites (totalling 15,271 dwellings), still demonstrates a shortfall of 843 dwellings or only 4.7yrs worth of supply. This is assuming that **all** sites identified within

emerging plans come forward in the identified five year period. Based on past performance, this is highly unlikely.

3.18 This position only seeks to further reinforce the need for a strong flexibility policy.

iii) Persistent Under-Delivery

3.19 The NPPF (para. 47) requires LPAs to apply an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a *'persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land'*.

3.20 The NPPF is silent on the timeframe in which to assess whether a 'persistent under delivery' exists and is a matter of judgment. The Council's have sought to suggest that it has a record of delivery in the NPA within Appendix 9 of DV21. We consider that as a maximum, the previous 3-years only needs to be assessed for monitoring and determining the appropriate buffer (as assessed in the Blofield Decision). However, we have also carried out a monitoring exercise since 2001 to demonstrate how truly persistent this under delivery has been in the longer term in the NPA, and particularly, since the start date of the present plan period.

3.21 Since 2001, there has been a number of changes to the Development Plan in which the housing delivery requirements could be assessed against in the NPA, namely,

- The Norfolk Structure Plan (1993 – 2011) @ 1,194 dpa;
- The East of England Plan (2001 – 2021) @ 1650 dpa; and
- The Joint Core Strategy (2008 – 2026) @ 1,825 dpa.

3.22 In order to determine the past performance of delivery on an annual basis, the year on year requirement at that time needs to be assessed, including the preceding surplus/deficit. This matter is complicated due to the various plan periods being superseded by the publication/adoption of the latest 'development plan' and an alternative plan period being assessed that 'back dates' the housing requirements. For instance, the JCS housing requirements from 2008 onwards took into account preceding shortfall in the EEP requirement 2001-2008.

3.23 Table 3.3 below sets out the performance of delivery in the NPA when tested against the actual annual housing requirement at that point in time (i.e. preceding deficit is taken into account). It should be noted that when calculating the tables below, the actual annual requirement when 'spread' over the remaining plan period has been used to calculate the annual requirement increase (rather than the next 5-year period). This is in order to demonstrate the Council's 'best case' scenario when assessing the historic shortfall.

3.24 Table 3.3 demonstrates that in only 2 years since 2001, has the NPA met its annual requirement. This represents an 85% failure rate to meet the annual housing requirement. This is somewhat of a different position than set out in DV21 Appendix 9 and is again considered a misleading picture of the actual situation.

**Table 3.3 Shortfall 2001 – 2013**

April/March	Actual Completions	Actual Annual Requirement	Calculation	Annualised (Under)/Over Delivery
2001/02	1,342	1,289 <sup>4</sup>	$12,733^5 - 1,342 = 11,391/9$ $= 1,266$	53
2002/03	1,265	1,266	$11,391 - 1,265 = 10,126/8$ $= 1,266$	(1)
2003/04	1,261	1,266	$10,126 - 1,261 = 8,865/7$ $= 1,266$	(5)
2004/05	1,200	1,266	$8,865 - 1,200 = 7,665/6$ $= 1,278$	(66)
2005/06	1,122	1,278	$7,665 - 1,122 = 6,543/5$ $= n/a$	(156)
2006/07	1,432	1,650 <sup>6</sup>	$33,000 - 1,432 = 31,568/19$ $= 1,661$	(218)

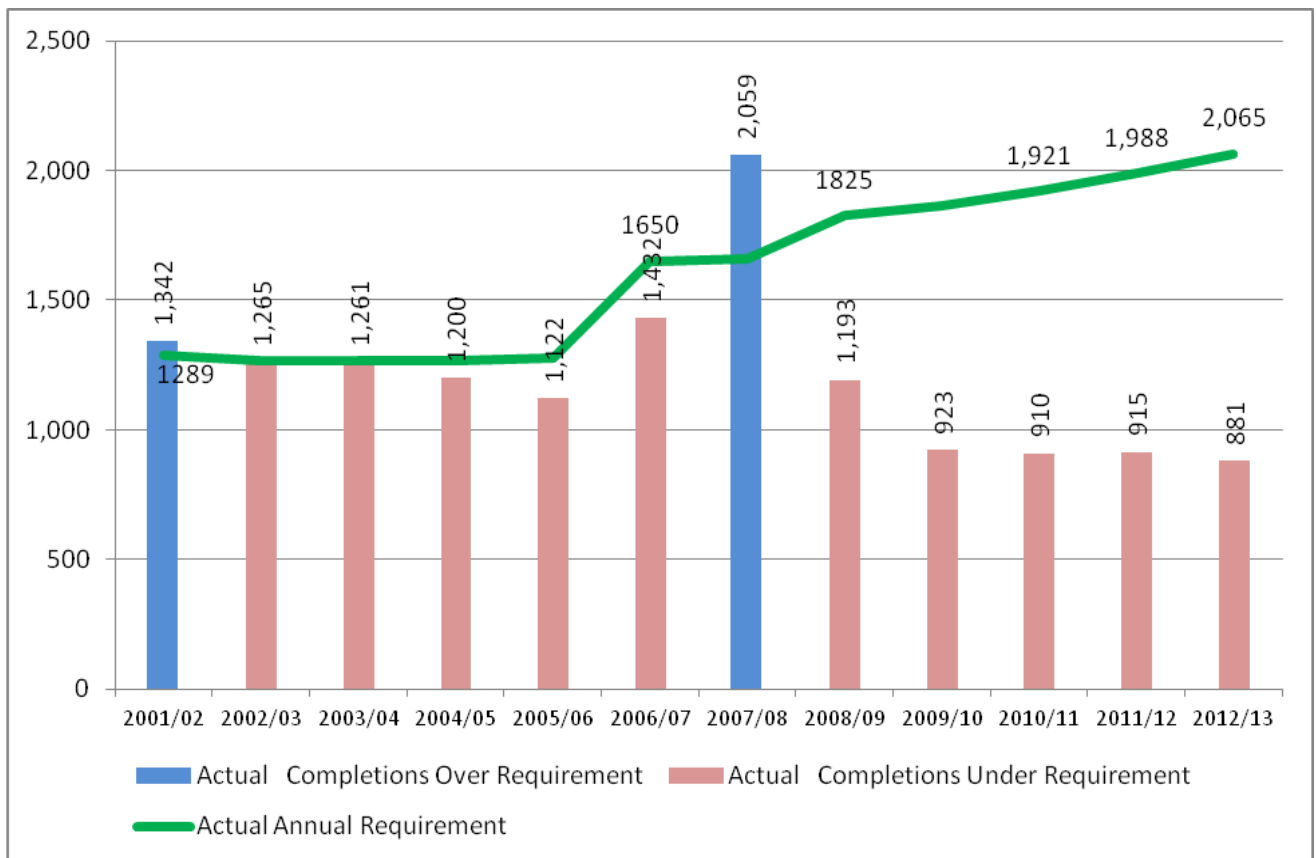
<sup>4</sup> At 2001, only 8,767 dwellings had been completed in the NPA since 1993 against a requirement of 21,500 as set out in the Norfolk Structure Plan 1993-2011 (source: Table 1 NCC Housing Report April 2007 - see **Appendix 3**. 15,003 dwgs – 6,236 dwgs = 8,767dwgs) . Therefore 12,733 dwellings to be delivered in the remaining 10 years of the plan period at 1,273dpa

<sup>5</sup> Remaining requirement to end of Plan Period.

<sup>6</sup> Figure derived from EEP (33,000 / 20yrs) 2001 – 2021 = 1,625dpa.

2007/08	2,059	1,661	$31,568 - 2,059 = 29,509/18$ = n/a	398
2008/09	1,193	1,825 <sup>7</sup>	$32,850 - 1,193 = 31,657/17$ = 1,862	(632)
2009/10	923	1,862	$31,657 - 923 = 30,734/16$ = 1,921	(939)
2010/11	910	1,921	$30,734 - 910 = 29,824/15$ = 1,988	(1,011)
2011/12	915	1,988	$29,824 - 915 = 28,909/14$ = 2,065	(1,073)
2012/13	881	2,065	$28,909 - 881 = 28,028/13$ = 2,156	(1,184)

**Figure 1: Graph Demonstrating Shortfall 2001 – 2011 (as per table 3.3)**



<sup>7</sup> Figure derived from JCS (32,847 / 18yrs) 2008 – 2026 = 1,825dpa.

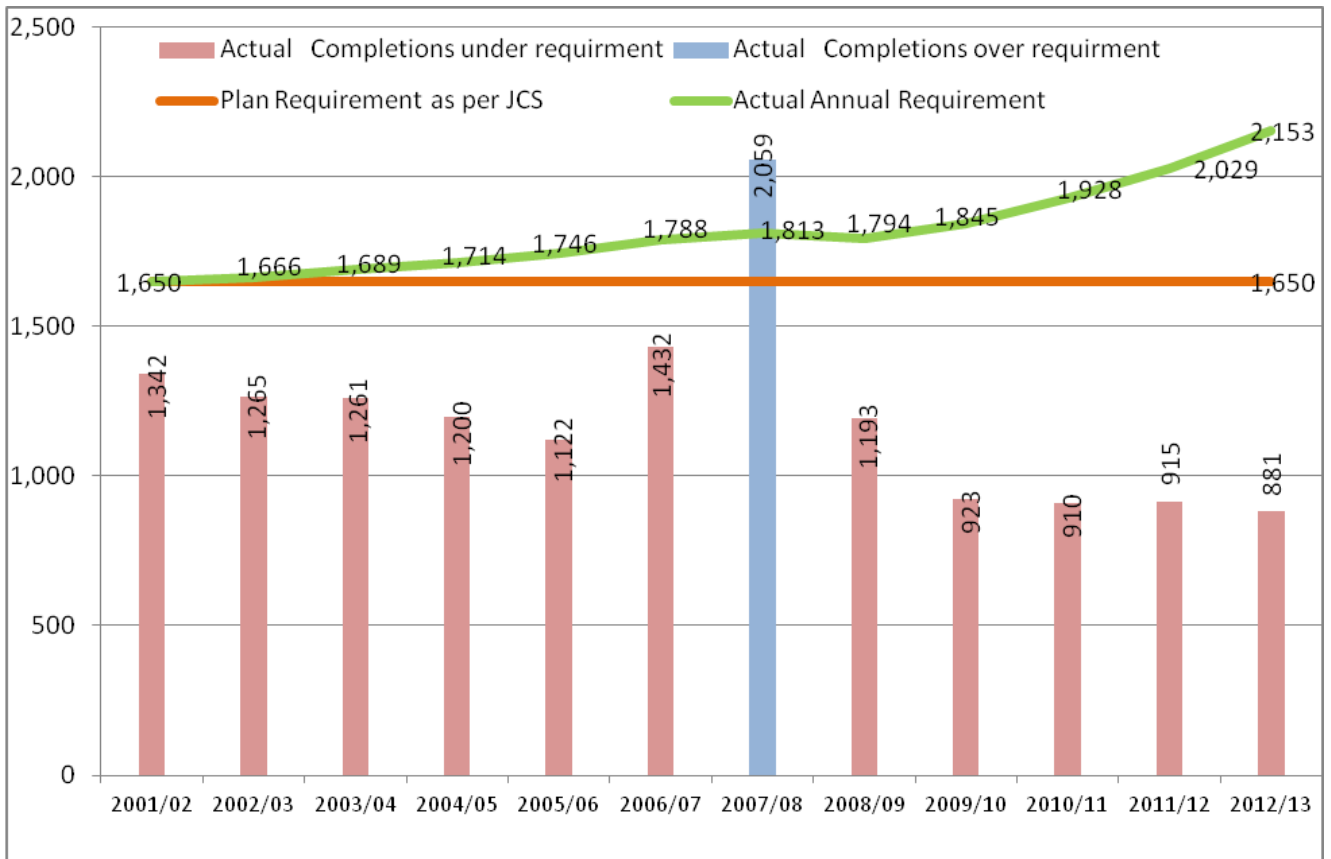
3.25 Notwithstanding the above position, the EEP superseded the Norfolk Structure Plan and had a plan period of 2001 – 2021 and an annual requirement in the NPA of 1,650 dwellings (33,000 total). Although the EEP was not published until May 2008, page 104, and is now revoked, the JCS recognises the EEP housing requirements since 2001 in a schedule of the 'Annual delivery rates and requirements' for the NPA. This Table, which represents the adopted position for the NPA within the development plan, sets out the housing target for the period 2001/02 – 2020/2021 as 1,650 dwellings per annum (i.e. back dating the EEP requirement) and sets out the annual completion rates. Table 3.4 details.

**Table 3.4 NPA Historic Delivery April 2001 – March 2013 against EEP Requirements**

<b>April/March</b>	<b>Actual Completions</b>	<b>Plan Requirement</b>	<b>(Under)/Over Delivery</b>	<b>Actual Annual Requirement<sup>8</sup></b>	<b>(Under)/Over Delivery</b>
2001/02	1,342	1,650	(308)	1,650	(308)
2002/03	1,265	1,650	(385)	1,666	(401)
2003/04	1,261	1,650	(389)	1,689	(428)
2004/05	1,200	1,650	(450)	1,714	(514)
2005/06	1,122	1,650	(528)	1,746	(624)
2006/07	1,432	1,650	(218)	1,788	(356)
2007/08	2,059	1,650	409	1,813	246
2008/09	1,193	1,650	(457)	1,794	(601)
2009/10	923	1,650	(727)	1,845	(922)
2010/11	910	1,650	(740)	1,928	(1,018)
2011/12	915	1,650	(735)	2,029	(1,114)
2012/13	881	1,650	(769)	2,153	(1,272)
<b>Total</b>	<b>14,503</b>	<b>19,800</b>	<b>(5,297)</b>		

<sup>8</sup> Same method of calculation as per Table 3.3

**Figure 2: Graph Demonstrating Shortfall 2001 – 2011 against EEP Requirements (as per table 3.4)**



3.26 Table 3.4 and Figure 2 demonstrate that in only one year of monitoring (2007/08), completions exceeded the annual EEP requirements as published in the JCS or the actual annual requirement. This is a 90% failure rate resulting in a significant shortfall 5,297 dwellings over a 12-year period.

3.27 Therefore, when assessed against the actual shortfall at that specific point in time (Table 3.3) or when monitored against the adopted EEP/JCS position (Table 3.4) in both the planned or actual requirement scenarios, the NPA has a record of 'persistent under delivery of housing'. Furthermore, when the most recent 5-years are assessed, i.e. since the start date of the JCS plan period, not only have completions failed to exceed requirements, but the 'deficit gap' is increasing.

3.28 On the above analysis, it can therefore be concluded that a '*persistent under-delivery of housing completions*' is evident, and the NPPF buffer of 20% (moved forward from later in the plan period) should be applied to '*provide a realistic prospect of achieving the planned*

*supply and to ensure choice and competition in the market for land*'. This position was most recently supported by the Blofield Appeal Decision (para. 44) (DV8).

- 3.29 In addition, the Townhouse Road Appeal (**Appendix 1** of this statement), confirmed in para. 7 that '***Over the 3 years since the JCS commenced there has been an under delivery in relation to requirements. The Annual Monitoring Report attributes this to the economic situation and also on the fact that local plans were drawn up on the basis of a lower Structure Plan target. However it would appear that even before that the NPA local authorities were failing to deliver the housing that was required***'. (our underline).
- 3.30 Notwithstanding the revised housing trajectories put forward by the GNDP (DV18), and the additional evidence submitted in relation to Rackheath (DV21 Appendix 10) we consider that the historic and present delivery of housing within the NPA, only seeks to cast considerable doubt on the ability to deliver the JCS trajectories, and meet the overall housing requirement in the plan period. This position reinforces the need for a positively worded flexibility policy that can assess the under-delivery in a rapid fashion.



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#### **4.0 THE COUNCILS RESPONSE TO BARTON WILLMORE'S SUPPLEMENTARY RESPONSE TO Q6 MATTER 1 (REF DV6): SOURCES OF ALTERNATIVE SUPPLY OF 7,000 DWELLINGS (REF DV19)**

4.1 We do not seek to rehearse any of the specific arguments made within Barton Willmore documents DV6 or DV25. However, we have the following observations/comments to the Councils response (DV19) which in turn responds to Barton Willmore document DV6.

##### Paragraph 2 Summary

4.2 We note in the summary response (para 2) the GNDP recognise the '*scale and distribution of growth promoted in DV6 is not supported by the Sustainability Appraisal or the background evidence prepared by the Councils*'. We concur with this view which only demonstrates that this alternative option was indeed never tested as an alternative strategy by the GNDP.

4.3 We put forward DV6 as an example only to demonstrate that there were/are reasonable alternative options that should have been tested as part of the SA/SEA process. DV6 was not therefore intended to be considered by the GNDP as a document that contained the entire necessary evidence base required to support such a strategy. It was submitted to demonstrate how an alternative strategy could have been rationally considered as part of the SA/SEA process.

##### Create Consulting Plan B

4.4 The use of a capacity testing figure of 3,600 dwellings (for the Create "Plan B") was not intended to be a limiting factor nor a formal cut off point in terms of the scale of development within the Growth Triangle. The test was undertaken simply to demonstrate that a release in excess of 1,600 dwellings in the NEGТ could take place before the NDR is constructed, and, was a realistic scenario capable of being tested within any SEA/SA process as a reasonable alternative strategy.

4.5 It was never the intention that the Plan B would replace the NDR. It is simply one way of demonstrating how further new dwellings can be released if the NDR is continued to be delayed or not delivered, and, how a flexible approach can be taken to meeting some of the housing requirements in the NEGТ. The fact that the GNDP is still maintaining that only 1,600 dwellings can be released following the construction of the Postwick Hub, demonstrates both a lack of appreciation of the need to provide for a flexible alternative, and, the poor return

for nearly £20m of public sector funding. The reality is that the Postwick Hub will form the main connection point to the trunk road network for the NDR and therefore will have significantly more capacity with an effective link road than the GNDP are stating. For some reason they appear however not to be prepared to undertake an assessment of the various options.

*i) Postwick Hub*

4.6 The GNDP has, at some length, sought to discredit the 'technical details' of the proposed Plan B Postwick Hub, (without providing any detailed evidence or comments on the issue) citing such matters that it does not have HA approval, even though the Plan B Postwick Improvement has been developed by the original design team of the current Postwick junction arrangement. The scheme meets the various highway design standards; and whilst detailed General Arrangements, or the full detailed modelling exercise have not been supplied, they can be forwarded showing all key geometric design elements and demonstrating sufficient capacity. In our view there are no technical reasons why the design of the Postwick Junction could not be completed. This scheme could easily be delivered within 2 years.

4.7 Notwithstanding the above, the principal point is that the GNDP has not understood that the Create Plan B Postwick Improvement is only proposed as an alternative in the event that there is failure or delay to the current Postwick Hub proposal or NDR. As a consequence, the GNDP has failed to test such an alternative as there is concern that in doing so, this could undermine the present Postwick Hub funding. This would not be the case.

*ii) Link Road*

4.8 The GNDP has commented on the Plan B Link Road which consists of three main sections. One section is the link from Postwick Junction to Plumstead Road. This link is to be provided as part of the recently permitted Brook Farm proposal.

4.9 Another section is the Link Road between Plumstead Road and Salhouse Road. The GNDP states that this section of road is implied as "future infrastructure" in para 2.23 of the Broadland Local Plan (Replacement) 2006 but not specifically proposed. The GNDP also states that there are no current proposals for such a link, either as part of a development application or as a road scheme in its own right. The GNDP does not believe that this section of road could be delivered before 2016.

- 4.10 These assertions appear to be at odds with the JCS Appendix 7 Ref T15 and the accompanying LIPP (Table 11.1 Item T15), which clearly shows the Proposed Link Road between Plumstead and Salhouse Road exists as a proposed scheme, with a time frame for its implementation between 2011 to 2016 (this issue is addressed in Section 5).
- 4.11 The final section of the Link Road is between Salhouse Road and Wroxham Road. This section has been secured as part of the White House Farm development, which has already received planning approval.
- 4.12 The GNDP has again misunderstood the principal function of the Plan B Link Road, which is not intended to replace the strategic function of the NDR. The main purpose of this Link Road is to facilitate the early development of the NEG T if both Postwick Hub and the NDR are delayed, providing an effective distributor road for public transport and links to key employment sites as a reasonable alternative.

#### Secondary Education

- 4.13 DV19 was circulated on 17 June 2013, ahead of the submission date of further representations on 21 June. Barton Willmore's submission included a further education report prepared by EMF Limited (DV25). In response to the comments made by the GNDP with DV21, we note that:
- Paragraph 25 confirms the GNDP recognise the LEA has a statutory responsibility to provide sufficient school places. However, this does not mean that schools in neighbouring catchments would be required, if no capacity can be found in Wymondham as paragraph 25 suggests. A new school could be provided in Wymondham, and DV25 sets out how this can be achieved.
  - DV25 sets out how the objectives referenced by the GNDP in para. 26 can be met. Furthermore DV25 questions the capacity assumptions of Wymondham Academy by NCC Education and therefore address matters raised in para. 27 and para. 28.
  - We question why the GNDP assumes the Academy would oppose the provision of a new school in its catchment area, given it has a good and successful reputation
  - There appears to be no input or confirmation of the position from Norfolk County Council within the GNDP statement.

## 5.0 LIPP Main Modification 7 (DV23)

- 5.1 We have reviewed the LIPP (Main Modification 7) (DV23) and wish to draw to the Inspector's attention a proposed modification that we do not consider necessary or appropriate to be modified. This specifically relates to infrastructure project T15 (a Development Link Road in the NEGT).
- 5.2 We seek clarity from the GNDP as to why it considers it necessary that TP15 (which is identified as a priority 1 Infrastructure Item) has been made more generalised and vague when describing the scheme within Appendix 7a.
- 5.3 For instance, MM7 identifies that on page 19 of 72, the following text is to be removed.

T15	Development Link Broadland Business Park to Salhouse Road	Old Catton, Sprowston, Rackheath, and Thorpe St Andrew Growth triangle	Developer Lead	2.5	-Developer contributions	2016	NATS
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- 5.4 However, on page 51 of 72, T15 now reads (with a similar amendment on pages 53 and 54 of 72 which takes place by 2016) as:

T15	Completion of local development Link Road	Old Catton, Sprowston, Rackheath, and Thorpe St Andrew Growth triangle	Developer Lead	2.5	Developer Funded	2016	NATS
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- 5.5 We question why this proposed amendment is necessary and whether it adds to any certainty over the delivery of the infrastructure project.

## **6.0 CONCLUSIONS**

- 6.1 We do not consider Main Modification 2, relating to new policy 21, is appropriately worded and does not provide for sufficient triggers or actions in the event that it is required.
- 6.2 We do not consider the NPA has appropriately assessed the under-delivery of housing in the NPA, and should apply a 20% NPPF buffer.
- 6.3 The NPA cannot demonstrate a 5-year supply of land, even with the application of a 5% buffer. It seeks to rely on emerging allocations that carry no weight in an attempt to demonstrate an alternative 5-year supply position.
- 6.4 The NPA is the appropriate and correct area to assess the 5-year supply of housing. It is not appropriate to disaggregate each Council's contribution to its part of the NPA.
- 6.5 Barton Willmore considers the housing land supply position is 3.06yrs. This represents a deficit of 6,244 dwellings.
- 6.6 Barton Willmore considers education provision can be accommodated in Wymondham even if Wymondham Academy is at capacity.
- 6.7 There is no reason to modify the T15 LIPP requirement.

# **APPENDICES**

## **Appendix 1**

**Townhouse Road, Costessey**

**(Appeal Ref: APP/L2630/A/12/2170575 – August 2012)**



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# Appeal Decision

Inquiry held on 17-20 July and 1 August 2012

Site visit made on 1 August 2012

**by Christina Downes Bsc DipTP MRTPI**

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

**Decision date: 31 August 2012**

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**Appeal Ref: APP/L2630/A/12/2170575**

**Land at Townhouse Road, Costessey, Norfolk NR8 5BY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Martin Green and Norwich Consolidated Charities against the decision of South Norfolk District Council.
  - The application Ref 2009/1996/O, dated 16 December 2009, was refused by notice dated 15 August 2011.
  - The development proposed is residential development of 70 dwellings and associated works including a new access to the south.
- 

## Decision

1. The appeal is allowed and planning permission is granted for residential development of 62 dwellings and associated works including a new access to the south on Land at Townhouse Road, Costessey in accordance with the terms of the application, Ref 2009/1996/O, dated 16 December 2009, subject to the conditions on the Schedule at the end of this decision.

## Procedural Matters

2. The application was submitted in outline form with all matters reserved for future consideration apart from access. As scale is a reserved matter further information was submitted during the course of the Inquiry regarding the height, width and length of the proposed buildings in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010. It was confirmed that no dwelling would exceed 2 storeys in height.
3. There was much discussion during the course of the Inquiry about the distance of the development from the protected trees in Carr's Hill Wood. The Appellants proposed a 15 metre buffer zone between the northern site boundary and the built development and that this would not be publicly accessible. It was clear however that it would not be possible to accommodate the proposed number of dwellings at a density of 30 dwellings per hectare whilst maintaining a similar relationship between the new dwellings and the existing residential properties to the south and west.
4. The Appellants sought to overcome this problem by reducing the number of dwellings to 62 and producing a revised illustrative Masterplan (Document 24). There were no objections from the main parties or any of those present at the Inquiry to this change. I am satisfied that there would be no prejudice to anyone's interest and that the revisions would have benefits in terms of the protected trees. I have had regard to *Bernard Wheatcroft Ltd v Secretary of*



*State for the Environment (1982)* and concluded that the substance of the development would not materially change. I shall therefore determine the appeal on the basis that it is for a residential development of 62 dwellings.

5. The scheme would be unlikely to have significant effects on the environment by virtue of factors such as its nature, size or location. It is not therefore considered to be environmental impact assessment development under the provisions of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

## **Reasons**

### ***First Issue: Whether the proposal is necessary to meet the housing needs of the district***

#### *Policy Context*

6. The Joint Core Strategy (JCS) has been adopted by the Councils of South Norfolk, Broadland and Norwich City and envisages a substantial increase in the number of homes and jobs within the Norwich Policy Area (NPA). The 3 local authorities, along with Norfolk County Council, work together through the Greater Norwich Development Partnership (GNDP). The total requirement to 2026 is 32,847 homes which gives an annualised requirement of 1,825 from 2008. The National Planning Policy Framework (the Framework) requires local authorities to identify and annually update a supply of specific deliverable sites to provide five years worth of housing. An additional 5% buffer is to be added to ensure choice and competition. There is no dispute that also taking account of completions and future projections there would only be 3.13 years of deliverable housing land, which would amount to a shortfall of over 3,900 dwellings in the NPA.
7. Over the 3 years since the JCS commenced there has been an under delivery in relation to requirements. The Annual Monitoring Report attributes this to the economic situation and also on the fact that local plans were drawn up on the basis of a lower Structure Plan target. However it would appear that even before that the NPA local authorities were failing to deliver the housing that was required. The situation does not look set to improve in the next year or two. None have development plan documents in place to show how the development requirements are to be met. All are at pre-submission stage and so can be afforded very little weight. The GNDP deals with shortfalls by distributing them over the remaining plan period which means that short term needs remain largely unresolved. The Framework makes clear that where there is a persistent record of under delivery the buffer should be increased to 20%. As a 3.13 year supply is a very serious shortfall indeed it seems unnecessary for me to conclude on whether a higher buffer should be applied in this case. Suffice it to say that if a 20% buffer were included the deficit in provision would be considerably worse.
8. The JCS sets out the housing requirements for each of the districts in the NPA to 2026. In the case of South Norfolk this amount to 9,000 homes over and above existing commitments giving a total of just over 13,000 dwellings. Policy 9 sets out the spatial strategy for growth in the NPA and Easton/Costessey is envisaged as a suitable location for at least 1,000 dwellings as well as a share of the additional 1,800 dwellings allocated to smaller sites in the district. Policy 10 sets out additional infrastructure requirements for the

major growth locations and at Easton/ Costessey this includes capacity expansion at the A47 Longwater junction as well as Bus Rapid Transit along the Dereham Road corridor to Norwich city centre. The Site Specific Allocations and Policies Development Plan Document (SSAP) is expected to be submitted for examination later this year with adoption anticipated by late 2013. The Council has decided to undertake further public consultation on a list of preferred sites. Whilst these seek to meet the growth expectations in Policy 9 the SSAP is at a very early stage and the preferred sites have not yet been tested at public examination. In the circumstances they can be given very little weight in terms of addressing the present housing shortfall.

9. South Norfolk District Council (SNDC) contends that it will not necessarily wait for the SSAP to be adopted before approving housing on some of the preferred sites. This includes the second phase of Lodge Farm on the Dereham Road corridor which could make a significant contribution to the Easton/ Costessey requirement. However at this stage there is no planning application and it seems unlikely that, even if the site does come on-stream in advance of the SSAP, it would contribute significantly until the latter part of the 5 year period. In any event even if the sites that SNDC has identified for possible early release came forward they would yield insufficient housing to meet the identified deficit. So whilst it is acknowledged that SNDC is being pro-active it remains the case that there is a serious shortfall of deliverable housing sites which is unlikely to be met in the next 5 years either within the NPA as a whole or within the SNDC part of the NPA.
10. In the face of a failure to identify a supply of deliverable housing sites to meet short-term housing needs, Paragraph 49 of the Framework is unequivocal that relevant policies for the supply of housing should not be considered up-to-date. In such circumstances Paragraph 14 advises that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole. Before considering this matter further it is relevant to consider whether there are any factors in this case that might reduce the weight to be given to the contribution that the site would make towards reducing the housing land supply deficit.
11. Policy 10 in the JCS links new housing development to infrastructure improvements. In Easton/ Costessey this is particularly related to the Dereham Road public transport corridor and improvements to the A47 Longwater junction. SNDC make the point that the appeal site would contribute to neither. However it seems to me that in the absence of a plan that identifies sufficient sites within these locations to meet the housing requirement the infrastructure requirements cannot be considered as an in-principle constraint to development in other places. Clearly sustainability is an important issue but there is nothing to say that sustainable sites cannot exist in locations other than along the Dereham Road public transport corridor.

### *Deliverability*

12. The Framework places great emphasis on deliverability. The grant of planning permission for the appeal scheme would release land for 62 dwellings. However this is only going to help assuage the short term housing problem if the houses are actually built. Unfortunately in any housing scheme this can never be guaranteed even though the timescale for implementation can be reduced by condition to encourage an early start. In this case there are

various off-site highway improvements that would need to be undertaken prior to the occupation of any dwelling. This includes the provision of an improved section of footway along the northern side of Townhouse Road and the movement of the carriageway to accommodate it. Whilst this would inevitably cause a certain amount of disruption the Highway Authority has not raised objections and there is no reason why the works should cause a material delay.

13. The new footbridge would require planning permission and there is no certainty that it would be granted. However there was little disagreement that the present lack of a footway over the river makes it difficult for pedestrians to cross safely. I was told that there may be bat roosts beneath the arch of the old bridge. There was no specific evidence that this was the case or that appropriate action could not be taken if necessary to safeguard the protected species. It is understood that the Appellant has agreed terms to purchase the land required to construct the footbridge. The grant of planning permission would be a matter for SNDC and it would have to weigh up any adverse impacts against the benefits, including enabling the expeditious provision of housing to meet current shortfalls.
14. It is acknowledged that the proposal is in outline form and that reserved matters and other conditions would need to be discharged. Also that the owners of the site are not developers and that the site would therefore need to be sold on to a housebuilder. However none of this is particularly unusual and even if the process takes longer than the somewhat optimistic timeline of the Appellants there is no reason why the 62 dwellings could not be built and ready for occupation well within the next 5 years. The argument that this could still happen through the local plan process is difficult to understand as this would only push delivery further back even if the site were accepted by SNDC as a preferred option.

### *Conclusion*

15. In the circumstances it is concluded that this is a deliverable site that is available now. There is no reason why it should not make a contribution to the short term housing land supply deficit in the NPA. Any argument that it would be premature is misplaced in view of the early stage of the SSAP. The proposed 62 dwellings would not be sufficient in scale to be prejudicial to policies about the location of development. Conversely the argument that such a small number of dwellings would fail to make a significant impact on the reduction of the housing land supply deficit is not a good one. The 62 houses would provide real homes for real people and there is nothing in national or local planning policy to say that a development must be over a certain size before it can be deemed as significant. Indeed Paragraph 6.6 in the JCS explicitly recognises the benefits that small sites can bring in terms of flexibility and shorter term delivery. The current deficit in housing provision and the contribution that the appeal proposal would make in addressing it is a strong material consideration in favour of the appeal proposal.

### ***Second Issue: Effect on the character and appearance of the area and the landscaped setting of Costessey***

#### *Policy Context*

16. The appeal site is on the northern slopes of the River Tud behind a ribbon of development along Townhouse Road. Immediately to the north is Carr's Hill

Wood, which is privately owned woodland occupying the ridge. There is no dispute that the site lies outside the settlement boundary and that the development would be contrary to saved Policy ENV 8 in the South Norfolk Local Plan (LP) (2003) which restricts development in the countryside to that relating to rural activities. However it should be recognised that greenfield land outside of current settlement boundaries will be needed to accommodate the housing growth envisaged in the JCS.

17. Saved Policy ENV 3 seeks to protect the distinctive local landscape character of the river valleys from inappropriate development. This is a relatively extensive local designation and whilst the river valley landscapes are clearly valued by the local community the Framework does not endorse blanket restrictions of the type set out in Policy ENV 3. This and the other local designations have therefore been reviewed by the Council's Landscape Consultants. Whilst the river valleys designation is recommended to be retained changes are proposed to make it a criteria-based policy. This matter will be tested during the Examination of the SSAP bearing in mind the need to make provision for the requisite level of housing growth. At the moment the wording of the policy is not consistent with the Framework even though the national guidance recognises the importance of protecting local valued landscapes.
18. Policy 2 in the JCS is an area-wide strategic policy that promotes good design. Amongst other things it requires development to respect local distinctiveness including the landscape character and setting of settlements. This is supported by the *South Norfolk Place-Making Guide*, although as a consultation document this has limited weight. Policy 12 relates to the urban fringe parishes including Costessey and seeks opportunities to improve the townscape and retain the best of local character and protect the landscaped setting of the urban area. I turn now to consider the assessment of landscape and visual impacts on the river valley landscape within this context.

#### *Landscape and Visual Impact Assessment (LVIA)*

19. The methodology used in the LVIA was based on the *Guidelines for Landscape and Visual Impact Assessment: Second Edition* (the LVIA Guidelines) and has not been challenged. However the LVIA gives insufficient consideration to the impacts of the off-site highway works, particularly the removal and replanting of the hedge on the southern side of Townhouse Road to provide the required visibility splay. Also there was no satisfactory assessment of the effects arising from the construction of the new footbridge. Whilst this will be the subject of a separate planning application its construction is nevertheless a pre-requisite on which the appeal development would depend. The impacts arising from the highway works and the footbridge were dealt with in evidence to the Inquiry and I was able to make my own assessment at the site visit. The main parties disagreed about the sensitivity to change of many of the receptors, the magnitude of effect and consequently the significance of the impacts.

#### *Landscape Impacts*

20. The South Norfolk Landscape Character Assessment (LCA) identifies a number of characteristics that define the Tud River Valley landscape. These include its intimate, small scale nature; its remote, rural character despite the proximity to Norwich; its wooded nature and the importance of the pastoral valley floor as a green gap between Costessey and New Costessey extending up the valley sides. These attributes are referred to in the draft *South Norfolk Place-Making*

*Guide* and are evident within the vicinity of the appeal site. Whilst reference was made by some objectors to the Wensum River Valley this is to the north of the ridge and its landscape is not directly affected by the appeal scheme. Although the Council's Landscape Consultants undertaking the local designation reviews recommended that the LCA should be updated they considered that it remained a robust evidence base.

21. There would inevitably be a change to the site itself as fields would be replaced with built development. However it has an urban fringe character being divided into pony paddocks and scattered with a variety of outbuildings and shelters. The new dwellings would be behind frontage housing and would not extend the settlement edge significantly further to the east. In spatial terms the development would not result in the coalescence of Costessey and New Costessey or materially erode the green gap between them. On the other hand it would introduce built development into the rural river valley landscape and this would be apparent on the rising land.
22. The proposal would also involve changes within the valley floor. Even though the LCA does not specifically refer to the importance of hedgerows these are undoubtedly well represented features that contribute to the verdancy, rural character and sense of intimacy of the Tud River Valley. On the site itself a new hedge with trees would be planted along the eastern boundary and this would be beneficial. However in order to accommodate the required visibility splays a substantial section of the tall roadside hedgerow and tree screen on the southern side of Townhouse Road would be removed. The evidence suggests that there is sufficient space to plant a new hedgerow notwithstanding the proximity of the adjoining fishing lake. However it is likely to be some years before this would grow into a feature of similar stature. Whilst mature plants could be used there is no guarantee that they would successfully establish. More importantly the existing curved alignment of the hedge would be replaced by a straight edged feature to the rear of the visibility splay. In front would be a wide grass verge which would open up what is presently a road corridor with a significant sense of enclosure.
23. Other highway works are also proposed including widening the footway, realigning the carriageway and removing a section of the hedge on the northern side of Townhouse Road to provide the new access. The works to provide the footbridge would result in the removal of one or more trees and possibly small sections of hedgerow and undergrowth. The structure would also add a modern dimension along with new areas of footway. These works may be of relatively small scale but they would add an urbanised dimension in what is currently a short stretch of rural road between Costessey and New Costessey. In the circumstances the LVIA has underestimated the magnitude of effect on hedgerows, the River Tud valley and the wider proposal site and I am more inclined to agree with the Council's assessment that the landscape impacts would be major to major/ moderate in these respects.

### *Visual Impacts*

24. In addition to the assessment in the LVIA the Appellant submitted some additional visualisations at appeal stage. It was established at the Inquiry that these were based on the Masterplan for a subsequent planning application but the differences are relatively small and it is doubtful that they would be noticeable from a distance. In any event the Masterplan is only indicative at this stage. There was some debate at the Inquiry about the muted colours

- used in the modelling but the visualisations themselves included a palate of colours including white rendering and red roof tiles. I am satisfied they are reasonably representative of the type of development in the locality.
25. My site visit was extensive and included most of the LVIA viewpoints and also those considered important to objectors, including the Rule 6 Party. In addition I was invited to view from several individual properties. I was very mindful that my observations were being made in summer and that whilst the site may have been obscured by trees and greenery this would not necessarily be the case in the winter months. I was also assisted by the photographs, especially those in the booklet "*Save our River Valley*", submitted by the Parish Council and Townhouse Road Action Group, which were taken when trees were not in leaf. The conclusions that I have reached takes account of the matrix for the calculation of significance of effects in the LVIA Guidelines.
26. As the appeal site is on one side of the valley it is inevitable that development would be seen, especially from the residential areas in New Costessey which occupy the opposite valley slope. There was some debate at the Inquiry about whether the effect on residential occupiers had been adequately assessed in terms of the sensitivity to change. Whilst many properties have an east-west orientation I observed many also have living room windows and gardens facing towards the appeal site. The Council estimated that this could amount to as many as 90 dwellings although this is difficult to corroborate as it was on the basis of a quick appraisal made during the course of the Inquiry. Nevertheless my observations confirmed that a considerable number of residential properties are affected in this way. It is not the purpose of the planning system to protect individual views from private property. However the LVIA Guidelines make clear that the cumulative effect on a number of residents can give rise to a community impact. I do not consider that this community sensitivity has been reflected sufficiently in the LVIA.
27. Townhouse Road becomes Norwich Road after the river bridge and it rises up through New Costessey. From here I agree with the Council that the visual receptors would have a high sensitivity to change when the community impact is included. Views of the site would be framed by existing topography, development and vegetation throughout the year. It is appreciated that the new houses would be seen against the backcloth of Carr's Hill Wood and that they would not break the skyline. Also that there would be buildings in the foreground. Nevertheless I consider that the magnitude of change would be high and I agree with the Council that the significance of the visual impact would be major/ moderate. Mitigation through proposed tree and hedge planting is unlikely to make a great deal of difference from here and so this impact would be likely to endure in the long term. There were a few other places in New Costessey where a similar funnelled view was apparent. Whilst not assessed in the LVIA, the view from Highlow Road is one such example.
28. From many of the other viewpoints in New Costessey, including around Bunker's Hill and along Grove Avenue, the development would be seen within a wider panorama of woods and farmland. There would also be glimpses of existing development, including the houses along Townhouse Road and these factors, when combined with the distance, would reduce the magnitude of change although the sensitivity would remain high taking account of the community effect. From many viewpoints in New Costessey the summer vegetation provides a verdant screen and the full impact would occur mainly

- during the winter months. The significance of the impact has been underscored by the LVIA and I agree with the Council that the significance would be moderate adverse although the proposed landscaping may provide some mitigation in the longer term.
29. From within the valley floor the changes that would be particularly apparent relate to the loss of hedgerows and trees to accommodate highway works and the new footbridge. Views of the site would be opened up at this point and the visual containment and rural ambience would be considerably diminished. I am doubtful that the LVIA has properly considered these impacts and I agree with the Council that their significance is likely to be higher and range from major/moderate to moderate adverse.
30. There is a relatively open view from the anglers' car park adjacent to the fishing lake and the recreational use would result in a high sensitivity to change. Even though the view already contains Holkham House and caravans and structures the new buildings would result in a considerable change. I agree with the Council that the significance of the visual impact would be major/moderate adverse but this would reduce in time as the new hedge and trees along the eastern boundary of the appeal site became established.
31. There is a permissive footpath that runs from Townhouse Road west of the fishing lake and in a northerly direction to join the bridleway on the far side of the ridge. On the western side of this path is a thick field hedge and I could not find a place where views through to the new development would be particularly apparent. In addition it should be borne in mind that the footpath has been provided under the farm conservation scheme managed by Natural England and I was told that the agreement runs out in 2017. Whilst the Parish Council is hoping to establish its use as a public right of way there is no certainty that this will be successful. As things stand the use of the footpath is time limited and therefore in the longer term the significance of the adverse impact would considerably diminish.
32. Further to the north there is a field that has access to the bridleway and I understand that this is owned by Costessey Parochial Charity. I was also told that the charity may allow access to the land as a leisure facility in the future. Whilst there would be views of the tops of the proposed dwellings from this field it is difficult to place much weight on the significance of any visual impact as there is little evidence that such a scheme is likely to materialise.
33. There are dwellings backing onto the appeal site but unlike the situation in New Costessey the effect would be on the private view from a relatively small number of properties. There would not be the same community sensitivity. Individual outlooks would undoubtedly change but the Masterplan indicates that dwellings would be sited away from the southern and western boundaries and this is a matter that could be further addressed at reserved matters stage. The distances are sufficient to ensure that there would be no overbearing impact on the living conditions of these residents notwithstanding the difference in levels. I also viewed the appeal site from within Carr's Hill Wood. Taking account of the proposed 15 metre buffer between the woodland edge and the built development and that this woodland is not a public amenity the visual impact would be of minor significance.

### *Conclusion*

34. For all of the reasons given above I conclude that the appeal proposal would be harmful to the character and appearance of the area. It would give rise to significant and adverse landscape and visual impacts even after mitigation especially in terms of the landscape of the valley floor and from viewpoints in New Costessey. The Framework recognises the need to protect and enhance local landscapes and the appeal scheme would be contrary to relevant development plan policies including JCS Policies 2 and 12 and LP Policies ENV 3 and ENV 8.

### ***Third Issue: Whether this is a sustainable location for housing to allow new residents travel choices other than the private car***

#### *Policy Context*

35. In the JCS, Policy 1 seeks to address climate change and promote sustainability. It includes a number of provisions with this objective in mind including minimising the need for travel and giving priority to low impact modes of travel. Policy 6 addresses access and transportation. Amongst other things it seeks to concentrate development close to essential services and facilities so as to encourage walking, cycling and public transport. It requires significant improvements to the bus, cycling and walking network including Bus Rapid Transit on key routes. Policy 10 envisages Easton/ Costessey as a suitable location for growth albeit that it indicates this is dependent on capacity expansion of the A47 Longwater junction.

#### *Walking and Cycling*

36. The appeal site is on the eastern edge of Costessey and the nearest local shops and services are along Norwich Road in New Costessey which is a direct walk from the site entrance. Here there is a small supermarket, a pharmacy, a hairdresser and a post office. There are also a couple of take-aways and a public house. The small shopping parade is about 1 km from the site entrance. In Costessey there is a small local store, post office and hairdresser as well as a takeaway and public house. These facilities are about 1.3 km away but again the walk is a straightforward one along Townhouse Road. It seems to me that these facilities would meet many of the day-to-day needs of the new residents living on the appeal development.
37. I undertook both of these walks and they took about 13 minutes and 18 minutes respectively. The *Guidelines for Providing Journeys on Foot* was published in 2000 by the Chartered Institute of Highways and Transportation (the CIHT Guidelines). These provide a widely accepted standard for assessing reasonable walking distances. An acceptable walking distance for most purposes is considered to be 800 metres with a preferred maximum of 1.2 km. The CIHT Guidelines make the point that what is "acceptable" in individual terms will vary depending on such factors as individual fitness and physical ability, the purpose of the journey, alternative travel options and general deterrents to walking.
38. The routes are both uphill in the outward direction and the pavements are relatively narrow in places especially between Folgate Lane and the River Tud bridge. I noted that when crossing Folgate Lane on foot existing vegetation limits the visibility of turning vehicles. However whilst it is necessary to



- approach this junction with care I am not convinced that it presents unacceptable danger to pedestrians wishing to cross. Perhaps the greatest impediment to journeys on foot in the New Costessey direction is the bridge over the River Tud. The footways stop either side and it is necessary for the pedestrian to walk into the carriageway to cross the river at this point.
39. It has already been noted that the appeal scheme includes widening the footway between the appeal site and Folgate Lane and constructing a new footbridge. Both of these would be significant improvements to the pedestrian environment and would not only benefit those living in the new development but also existing residents wishing to walk between the two settlements. Although the local facilities would be beyond the 800 metres acceptable walking distance in the CIHT Guidelines they would not significantly exceed the preferred maximum. It is probable that not as many new residents would walk as may have been the case if the facilities were closer. However the journey would be manageable for many to make and would offer the opportunity to travel on foot to meet day to day shopping needs.
40. The CIHT guidelines indicate that the acceptable walking distance is 1 km and the preferred maximum is 2 km for schools and employment. There are primary schools in both settlements that would be within the preferred maximum but secondary schools and employment areas would be in excess of that distance. In addition key services such as doctors' and dentists' surgeries are between 2 km to 2.7 km away. Whilst these would be unlikely to be accessible to most people on foot they would be within a reasonable cycling distance.
41. I heard from a number of local people that cycling is a chosen travel mode although the traffic and hilly terrain seem to act as a disincentive for some. The location of the site means that journeys would involve an incline but on the other hand the return journey would be downhill. The Transport Statement indicated that Townhouse Road is relatively lightly trafficked in terms of the existing traffic flows. The traffic generated by the proposed development is not likely to significantly change this situation.

#### *Bus Travel*

42. There are bus stops close to the entrance of the appeal site and a bus service that runs half hourly on weekdays. It is appreciated that this does not compare with the 10 minute service that is anticipated for the Bus Rapid Transit routes into Norwich. However at present it is not certain when these routes, including that along the Dereham Road corridor, will be introduced. In view of the need to address the Council's housing deficit it is clear that sites are going to have to come forward that do not necessarily benefit from a 10 minute bus service.
43. I appreciate that several local people mentioned the reliability of the existing bus service in Costessey but there is little evidence that this is a widespread problem. I acknowledge that my site visit was a snapshot in time but over its duration I observed several buses travelling along Townhouse Road and Norwich Road in both directions. It is worth noting that there is also a bus stop close to the shops and services in both Costessey and New Costessey.
44. The appeal proposal includes providing bus shelters, timetable information and dropped kerb crossings with tactile paving to make it easier to cross from one

side of Townhouse Road to the other. These would undoubtedly improve the attractiveness of the bus service as a modal choice and would also provide a benefit to existing residents using the bus.

### *Conclusions*

45. It is noted that there is no specific guidance in the JCS as to how the requirements of Policies 1 and 6 should be assessed. It appears that in its Strategic Housing Land Availability Assessment the GNPD used a distance of 800 metres to key services such as schools, healthcare, local employment and shops. This has been used by the Council as one of a number of indicators to inform the preferred locations for new housing in the emerging SSAP. This may well be an appropriate indicator and I was told that following initial consultations no objections have been raised to it. However at the moment the SSAP preferred locations have not been tested at Examination and the Council has a problem with meeting its housing requirements. In the circumstances the fact that the appeal site is not within 800 metres of key facilities and services is a matter of little weight.
46. The appeal site may not be in as accessible a location as other sites that the Council prefers. However neither is it so inaccessible that new residents would have no other travel choices. There would be the opportunity to walk, bicycle or use the bus for a reasonable number of daily trips. Furthermore there would be significant improvements to the bus, cycling and walking environment, including the bus shelters, pavement improvements and new footbridge. These would be enhancements of a proportionate scale to the size of the development and are necessary for it to go ahead. Whilst Policy 6 seeks to promote improvements to the transport network in the absence of a CIL charging schedule this cannot be a requirement of all developments regardless of impact. In this case there would be no justification for asking for a contribution towards the Bus Rapid Transit along Dereham Road and the Council has not sought to do so.
47. For all of the reasons given above I conclude that this is a reasonably sustainable location for housing and that the development would allow new residents travel choices other than the private car. Nevertheless insofar as it would not minimise the need to travel or have walking and cycling as the primary means of travel there is some conflict with the strategic objectives of Policies 1 and 6 of the JCS.

### **Other Matters**

#### *Trees*

48. The Appellants' Arboricultural Constraints Report identifies no significant trees on the site itself. Whilst there are a few in adjoining gardens these give no cause for concern in terms of proximity to any future building especially bearing in mind that the layout of the development is a reserved matter. There are trees within the hedgerows along Townhouse Road but I have already considered this aspect of the development under my second main issue. Carr's Hill Wood lies immediately to the north of the appeal site and is semi-natural woodland protected by a Tree Preservation Order. Many of the trees are identified as veteran trees due to their age and I saw for myself that many grow close to the boundary. The Report indicates that the roots would

therefore encroach onto the site and recommended a protection zone of 15 metres to be kept free of construction requiring significant excavation.

49. The amended Masterplan includes such a protection zone and the provision and management of this area could be controlled by a planning condition. I note that the owners of Carr's Hill Wood have commissioned their own arboricultural assessment. Whilst this recommends a protection zone of 20 metres I am not satisfied from the available evidence that the additional 5 metres is critical to ensuring the health of the trees especially as it is proposed that the land should not be publicly accessible. In the circumstances the appeal proposal complies with saved Policy ENV 19 in the LP relating to protected trees. As the layout is a matter for future consideration there is no reason why the design and orientation of the dwellings should not ensure that gardens and windows are not unacceptably shaded and that views of the trees are not unduly disrupted such as to diminish their public amenity value. As this is privately owned woodland I note the owners' concerns about insurance liabilities but this is a private matter to be resolved between the relevant parties concerned.

### *Ecology*

50. There have been several ecological surveys on behalf of the Appellants and the owners of Carr's Hill Wood. The majority of the appeal site is grassland and there is no evidence that this is home to protected species that would be significantly affected by the proposed development. Hedgerows along the southern and western boundaries which provide foraging habitat for bats and also a good habitat for breeding birds would not be affected. The proposed buffer zone between Carr's Hill Wood and the development site would protect reptiles that may be present within the sandy banks along the woodland edge.
51. There was concern from local objectors that bat activity surveys had not been carried out and that these were necessary to inform potential mitigation. Reference was made to the Bat Conservation Trust document: *Bat Surveys: Good Practice Guidelines*. Whilst this provides good advice it is important to understand that its guidelines are not mandatory and have no statutory effect. The ecological survey commissioned by the owners of Carr's Hill Wood indicated the suitability of the veteran trees, including those on the woodland edge, for bat roosts. I was also told about a survey by the Big Norwich Bat Project that recorded significant bat activity in the wood.
52. Bats may well fly over the appeal site from time to time although there was no specific evidence that they use it as a foraging ground. It seems to me that any concern about disturbance to the roosts in the woodland would be addressed by the publicly inaccessible buffer zone. Furthermore the new hedgerow along the eastern boundary, which would also include tree planting, would provide a wildlife corridor between Carr's Hill Wood and the trees and vegetation further south. The loss of hedgerow along Townhouse Road would result in some reduction in potential foraging habitat in the short term but this would be replaced by the new hedge to the rear of the visibility splay in due course. It is noted that the Council's Ecologist raised no specific objection to the scheme but commented amongst other things that light pollution should be kept to a minimum. This, along with other mitigation measures could be addressed through an Ecological Management Plan. In the circumstances there would be no significant harm to protected species or nature conservation interests.

53. The River Wensum Site of Special Scientific Interest and Special Area of Conservation is about 0.4 km away. There is no evidence that the appeal proposal would significantly affect the integrity of the protected site either on its own or in combination with other plans and projects. An Appropriate Assessment under the relevant statutory requirements is therefore not required. I note that this is also the conclusion of Natural England who has raised no objections to the appeal development.

*Traffic*

54. There is some local concern that the local highway network could not cope with the traffic generated by the appeal development. However the proposal has been discussed extensively with Norfolk County Council as Highway Authority and subject to the mitigation measures proposed it has not raised objections to the appeal scheme. There is no evidence that the capacity of Townhouse Road or the other roads in the vicinity would be unable to accommodate the additional vehicle flows generated by the proposed development. In the circumstances it is considered that the development would not have an adverse effect on the free flow of traffic or highway safety.

**Planning Obligations**

55. Three fully executed Planning Obligations were submitted at the Inquiry. It is necessary to consider whether the obligations within these documents meet the statutory requirements in Paragraph 122 of the Community Infrastructure Levy (CIL) Regulations in order to determine whether or not they can be taken into account in any grant of planning permission. These require that the obligations must be necessary, directly related and fairly and reasonably related in scale and kind to the development in question. The Unilateral Undertakings both contain clauses that the contributions are conditional on my finding that they comply with the CIL Regulations.

56. The Planning Obligation by Agreement is between the Appellants and the Council. It makes provision for 33% affordable housing which accords with the requirements of Policy 4 in the JCS. The Schedule indicates that the affordable homes would be built and ready for occupation prior to the completion of 35 market homes. This seems a reasonable trigger point to provide comfort that the affordable housing element of the scheme would actually materialise. My concerns raised at the Inquiry about the link between the developer and the affordable housing provider were addressed by a change in the wording of the Schedule. There is a considerable need for affordable homes in the NPA and I am satisfied that the obligation meet the CIL Tests and can be taken into account.

57. The two Unilateral Undertakings covered various contributions relating to provision of recreation space, community facilities, education and libraries. Policy 20 in the JCS recognises that contributions towards infrastructure that is essential to secure sustainable development will be made through Planning Obligations in advance of a local CIL charging regime.

58. A recreation contribution of £52,468.50 is included. An assessment undertaken in 2007 indicated that open space provision in Costessey does not meet the needs of existing residents. From the evidence it appears that the Parish Council is particularly pro-active and that there are projects in the pipeline to improve older children's recreation needs at Breckland Park and Longwater

Lane. Both locations are reasonably accessible to the appeal site, especially by bicycle. I agree with the Appellant that the way that the contribution has been worked out is not altogether clear although it is based on the Council's Supplementary Planning Guidance (SPG): *Recreational Open Space Requirements for Residential Areas*. Whilst the contributions from this development cannot be expected to meet existing shortfalls I consider that, on balance, the information provided is sufficient to be satisfied that the recreation contribution is justified and complies with the CIL Tests. It can therefore be taken into account.

59. The Norfolk County Council Document entitled *Infrastructure, Service and Amenity Requirements for New Development* was published in March 2012. It explains how the education and library contributions have been worked out and I understand that this is applied consistently to development projects throughout the county. Nevertheless I was told that the document has not been subject to public consultation and therefore it has only limited weight.
60. The evidence suggests that there is a shortfall in provision for infant and nursery education. There is a contribution of £110,618 to address this matter. However it is not at all apparent whether the sum in question is fairly and reasonably related in scale and kind to the appeal development. This is because the calculations rely on a multiplier and it is unclear on what this is based. Furthermore there is considerable uncertainty about how the money would be spent. The County Council as Education Authority indicates that it is appraising various options. However it does not say whether this is to address existing shortfalls in provision or how the monies provided in the obligation would contribute towards facilities to benefit the children living in the appeal development. In the circumstances the contribution does not meet the CIL requirements and has not been taken into account.
61. A contribution of £3,720 is made towards library provision. The *Infrastructure, Service and Amenity Requirements for New Development* document indicates that a standard charge would be levied and the County Council has indicated that the money would be spent on library stock and equipment at Costessey library. I appreciate that it may be difficult to ascertain whether there is a shortfall in existing capacity to ascertain whether existing library facilities would be able to accommodate the needs of the new residents. However such information is necessary to be satisfied that the CIL requirements are met and it has not been made forthcoming.
62. The contribution towards community facilities is £100,000. However there is little available information on what this sum is based or whether there is a problem with the existing capacity such that the needs of new occupiers cannot be accommodated. Whilst I appreciate that the Parish Council has indicated projects to which the payment would contribute it is impossible to conclude that the contribution is justified. The Council commented that other developers had paid contributions for this purpose but this does not seem to me to provide a reasonable justification. Furthermore on the evidence given there does not appear to have been any consistency in terms of the amount of money that has been covenanted by different projects. In the circumstances I cannot conclude that the contributions towards library provision or community facilities are either fair or necessary. They do not comply with the CIL tests and cannot be taken into account.

### **Planning Conditions**

63. I have considered the planning conditions suggested by the main parties bearing in mind advice in Circular 11/95: *The Use of Conditions in Planning Permissions*. I have reworded them where necessary in the interests of precision, relevance and enforceability. Wherever possible I have imposed conditions that reflect the Secretary of State's model conditions in the circular.
64. In order to contribute to the housing land supply shortfall in the short term it is reasonable to reduce the implementation period from that normally applied to outline proposals. The provision and future management of the 15 metre wide buffer zone in the northern part of the site needs to be carefully controlled. I have imposed a clearer and more focused condition that requires the details to be approved before development commences in order to ensure protection occurs during as well as following the construction period. The insertion of the buffer zone would result in a reduction in housing numbers and it is reasonable that this should be reflected in a condition. Whilst a revised Masterplan was submitted during the course of the Inquiry indicating the changes referred to in Paragraphs 2 and 3 of this decision, it was only illustrative and a further Masterplan is required to show the design principles in greater detail.
65. Taking account of the visual assessments and to protect the living conditions of nearby residential occupiers it is appropriate to limit the height of the new houses and the Appellants agreed that this would be a maximum of 8 metres. In view of the sloping nature of the land the ground floor slab levels and site levels are also important to establish. However I do not consider that it is necessary to require an element of single storey dwellings in order to provide an appropriate mix of housing in accordance with Policy 4 of the JCS. Landscaping is a reserved matter and there is no need to include a condition relating to it at this stage. The evidence suggests that the site may hold some archaeological interest and that an evaluation would therefore be appropriate. Whilst there is little evidence of contamination on the site it is possible that this could emerge as an issue once development commences. Bearing in mind comments from the Environment Agency a condition would not be unreasonable.
66. It is proposed to dispose of surface water through a Sustainable Drainage System (SuDS). The success of this approach in the longer term is particularly dependent on the management regime. A condition requiring details of the SuDS and the future arrangements to ensure it continues to operate effectively is therefore required. Other measures to improve the sustainability credentials of the scheme relate to water usage and use of green energy resources. Whilst roof-mounted solar panels may be visually intrusive the Appellant's outline energy statement indicates that there are other options that could be used to meet the requirement for providing energy in a sustainable manner. Conditions concerning these matters are supported by policies in the JCS.
67. In view of my conclusions on ecological issues it is appropriate to ensure appropriate mitigation measures and enhancements. However I am not convinced that it is necessary or useful to include a detailed specification at this stage. The requirement would be best delivered by requiring an Ecological Management Plan which can focus on the matters of particular importance to the ecological value of the site. It was clarified at the Inquiry that there was concern about harm to the trees and hedges in the vicinity of the visibility

splays. Protection is reasonable as these features are important to the rural character of the valley corridor but I have been more specific in the condition I have imposed. The details to be subsequently approved can include such matters as construction exclusion zones and what can and cannot take place within them.

68. Although layout is a reserved matter it is not unreasonable to require details of internal roads, footways and parking areas and to ensure that individual dwellings are not occupied before access to the public highway has been provided. The footbridge would be the subject of a separate planning application and so it is not appropriate to require further details. The submitted plans show the arrangements for the junction with Townhouse Road and the visibility splay. Whilst it is thus unnecessary to require further details to be provided it is justifiable to require the implementation of the splay and to ensure that sight lines are not impeded in the interests of highway safety. In order to ensure the free flow of traffic along Townhouse Road it is necessary to require a Construction Method Statement to deal with matters such as operatives' parking and unloading arrangements. This will also include wheel washing arrangements to ensure excess mud is not deposited on the highway.
69. As has been previously discussed there are a number of measures to improve accessibility including the new footbridge. I have concluded that these provide necessary improvements to the sustainability credentials of the site and it seems reasonable that they should be available to new residents by the time the site is occupied. A Grampian style condition would therefore be appropriate. In the interests of the safety of future occupiers it is necessary to provide fire hydrants. The scheme includes an open space for children's play. Its future maintenance is dealt with through the Planning Obligation but in order to meet the needs of future occupiers a condition is required for its provision.

### **Overall Conclusions**

70. I appreciate that there is considerable local opposition to the appeal scheme. That was evidenced by the large number of people who attended the Inquiry and gave their views orally and in writing and also by the Parish Council and Townhouse Road Action Group who participated as a Rule 6 Party at the Inquiry. I appreciate that the local community is not against new housing as a matter of principle and I have no doubt that it favours a pro-active approach. However it remains the case that there is a serious shortfall in housing land and the development plan is unable to deal with it. Whilst there is a new local plan emerging this is at an early pre-submission stage. Even though some public consultation has taken place the document is still evolving and has not been subject to the rigour of testing at a public Examination. This is why it cannot be relied upon at present.
71. The shortfall in deliverable housing sites over the next 5 years means that the requirement for housing in the NPA is not able to be met and the growth allocated to South Norfolk district cannot be accommodated. In such circumstances Paragraph 49 of the Framework makes clear that development plan policies relating to the supply of housing should not be considered up-to-date. In such circumstances it is necessary to consider whether any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.

72. The Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development to which there are three dimensions – economic, social and environmental. For the reasons given in Issue Three, and notwithstanding some conflict with JCS Policies 1 and 6, I have concluded that overall this is a reasonably sustainable location for housing. The proposal would therefore fulfil an economic role by delivering land to improve choice and competition in the market place. The proposal would fulfil a social role by providing a mix of market and affordable housing to reflect local needs. There is no reason why the detailed design should not result in a high quality built environment that integrates successfully with its host community. There are also wider benefits to the pedestrian environment and improvements to help make the bus a more attractive modal choice. The proposal would fulfil an environmental role by providing open spaces and new hedgerows and it would offer efficiencies in terms of its energy provision and water use.
73. Nevertheless there would be substantial environmental harm as identified in Issue Two. The Tud Valley landscape is highly valued by the local community and the landscape and visual impacts would be significant and harmful. This would conflict with JCS Policies 2 and 12. Whilst the proposal would also conflict with Policy ENV 8 it seems inevitable that in order to address housing shortfalls greenfield land outside of existing settlement boundaries will need to be used. Furthermore the blanket restriction provided by Policy ENV 3 means that housing development is effectively excluded from the river valley landscape. This includes a significant part of the NPA in South Norfolk district. I have carefully assessed this harm against the serious deficiency of housing land. However I have come to the conclusion that, taking the policies of the Framework as a whole, the proposal does, on balance, represent sustainable development. The adverse impacts of granting planning permission in this case would not significantly and demonstrably outweigh the benefits that would be gained and there are therefore material considerations that override the conflict with the development plan.
74. I have considered all other oral and written representations but have found nothing to alter my conclusion that the appeal should succeed

*Christina Downes*

INSPECTOR





- 5 Paper by Mr A Gardiner entitled "*Visible autumn migration in west Norwich*" (October 2011)
- 6 Plan showing location of housing sites in Costessey and New Costessey submitted by the Parish Council
- 7 Statement of Common Ground between the Appellant and the Council
- 8 Bat Survey Good Practice Guidelines submitted by Mr Reed
- 9 Information about Phase 2 of the Lodge Farm development
- 10 Plan showing the permissive footpath to the east of the appeal site
- 11 Plans of settlement boundaries for Easton, Longwater, Costessey and New Costessey
- 12 Constraints table of potential housing sites
- 13 Indicative Masterplan for the appeal site relating to the 2012 planning application
- 14/1 Representation made to the Inquiry by Councillor Tim East
- 14/2 Representation made to the Inquiry by Councillor Vivienne Bell
- 15 Joint Core Strategy for Broadland, Norwich and South Norfolk (as adopted and without the remitted text to reflect the High Court decision on Broadland housing sites)
- 16 Supplement to the Design and Access Statement submitted by Mr Carpenter
- 17 Letter and plan relating to land purchase to construct the footbridge
- 18 Identification of views from residential properties submitted by Mr Holland
- 19 Letter from Norfolk Wildlife Services dated 18 July 2012 relating to bat surveys submitted by Mr Ivory
- 20 Information from Norfolk County Council on contributions requirements submitted by Mrs Townsend
- 21 Norfolk County Council document entitled "*Infrastructure, service and amenity requirements for new development*" (March 2012), submitted by Mrs Townsend
- 22 Extract from South Norfolk Local Plan including saved Policy LEI 7
- 23/1 Letter from Mr C Dole about bat surveys at Carr's Hill Wood (19 July 2012)
- 23/2 Correspondence from Mr G Watt including the document entitled "*Conservation Strategy for the River Wensum SSSI*" (19 July 2012)
- 24 Revised Indicative Masterplan for the appeal scheme showing a 15 metre buffer to the woodland
- 25 Plan showing Appellants' land ownerships adjacent to the appeal site
- 26 Statement by Costessey Parish Council and the Townhouse Road Action Group concerning the Statement of Common Ground (Document 7)
- 27 Further information from Norfolk County Council on contributions requirements submitted by Mrs Townsend
- 28 Proposed draft conditions
- 29/1 Planning Obligation by Agreement between the Appellants and South Norfolk District Council (affordable housing)
- 29/2 Planning Obligation by Unilateral Undertaking given by the Appellants to Norfolk County Council (education and libraries)
- 29/3 Planning Obligation by Unilateral Undertaking given by the Appellants to South Norfolk District Council (recreation space and community facilities)

## **PLANS**

### **A Application plans**

## **SCHEDULE OF CONDITIONS**

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission. The development hereby permitted shall begin either before the expiration of three years from the date of this permission or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 2) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 3) There shall be no more than 62 dwellings erected on the site. Dwellings shall be no more than 2 storeys with a maximum ridge height of 8 metres from finished ground level.
- 4) An ecological protection zone of 15 metres in width shall be provided between Carr's Hill Wood and the development area and shall be retained for the lifetime of the development. This area shall only be accessed for the purposes of management and maintenance and shall not include garden land. Before development commences a protection plan and method statement for the existing protected trees, a planting scheme, a timetable for implementation and provisions for future management and maintenance of the zone shall be submitted to and approved in writing by the local planning authority. Development shall be in accordance with the approved details.
- 5) No development shall take place until a detailed Masterplan for the site has been submitted to and approved in writing by the local planning authority. Development shall be in accordance with the approved Masterplan. The Masterplan shall include the following information:
  - a) Phasing of the construction of the 62 dwellings;
  - b) Dwelling mix;
  - c) Structural landscaping;
  - d) Open space and play areas; principal roads, footpaths and cycleways.
- 6) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 7) No development shall take place until a detailed scheme for the disposal of surface water, incorporating sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The scheme shall include arrangements for future maintenance and management of the scheme and shall be implemented in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.
- 8) If during development contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy, including a timetable for implementation, has been submitted to and approved in writing by the local planning authority detailing how the unsuspected contamination shall be dealt with. The approved

- remediation strategy shall be carried out as approved in accordance with the timetable.
- 9) The dwellings shall achieve Level 4 of the Code for Sustainable Homes in respect of water usage. No dwelling shall be occupied until the local planning authority has been notified in writing that the measures to achieve Code Level 4 in respect of water usage have been achieved for that dwelling. The measures shall be retained thereafter.
  - 10) No development shall take place until an Ecological Management Plan has been submitted to and approved in writing by the local planning authority. This shall include details of the mitigation to be provided for loss of habitats, measures to be taken to improve the biodiversity value of the site and a timetable for implementation. The Ecological Management Plan shall be carried out in accordance with the approved details and timetable.
  - 11) No development shall take place until details showing how the existing trees and hedgerows that are to be retained along the Townhouse Road frontage will be protected during the course of construction have been submitted to and approved in writing by the local planning authority. The details shall accord with BS 5837: *Trees in Relation to Construction*. All approved tree and hedge protection measures shall be in place prior to the commencement of construction and shall be retained thereafter until construction has been completed.
  - 12) No development shall take place until details of existing and proposed ground levels and ground floor slab levels of the buildings relative to Ordnance Datum Newlyn have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
  - 13) At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources. Details and a timetable of how this is to be achieved shall be submitted to and approved in writing by the local planning authority as a part of the reserved matters submissions required by Condition 2. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.
  - 14) No development shall take place until full details of all roads, footways, cycleways, parking and turning areas and associated drainage and visibility splays have been submitted to and approved in writing by the local planning authority. Development shall be in accordance with the approved details.
  - 15) Before any dwelling is first occupied the roads, footways and cycleways shall be constructed to binder course surfacing level between the dwelling and Townhouse Road.
  - 16) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
    - a) the parking of vehicles of site operatives and visitors;
    - b) loading and unloading of plant and materials;
    - c) storage of plant and materials used in constructing the development;
    - d) wheel washing facilities;

- 17) Before the first dwelling is occupied a visibility splay measuring 4.5x120 metres shall be provided to each side of the access where it meets Townhouse Road and such splays shall thereafter be retained at all times free from any obstruction exceeding 0.6 metres above the level of the adjacent carriageway.
- 18) No development shall take place until a detailed scheme for the off-site highway improvement works as shown on Drawing Nos: 250802-FA01-100 Rev P1 and 250802-FA01-001 Rev P1 have been submitted to and approved in writing by the local planning authority. These works shall be completed in accordance with the approved details before any dwellings are occupied. The works shall include:
  - a) The provision of a footbridge over the River Tud;
  - b) Real Time enabled bus shelters at the two closest bus stops on Townhouse Road;
  - c) Widening of the pavement between Folgate Lane and the river bridge;
  - d) Dropped kerbs and tactile paving close to the junction with Folgate lane and Townhouse Road.
- 19) No development shall take place until details of the location of fire hydrants served by mains water supply has been submitted to and approved in writing by the local planning authority. At least one fire hydrant shall be provided for every group of 50 dwellings or less and shall be installed prior to the occupation of any dwelling in that group.
- 20) No development shall take place until full details of the open space and play equipment have been submitted to and approved in writing by the local planning authority. Occupation of the 50<sup>th</sup> dwelling on site shall not take place until the open space and play equipment have been provided.

*End of conditions.*

## **Appendix 2**

**Land North of Norwich Common, Wymondham**

**(Appeal Ref: APP/L2630/A/09/2097802**

**November 2009)**

Mr Edward Hanson  
Barton Willmore LLP  
7 Soho Square  
London  
W1D 3QB

Our Ref: APP/L2630/A/09/2097802

11 November 2009

Dear Mr Hanson

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY PELHAM HOLDINGS LTD  
APPLICATION REF: 2007/2703  
LAND NORTH OF NORWICH COMMON, WYMONDHAM, NR18 OSW**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, M T O'Rourke BA(Hons), DipTP, MRTPI, who held a public local inquiry on 28-31 July 2009, into your clients' appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of South Norfolk District Council to refuse outline planning permission for residential development (class C3) and 460sqm retail (class A1) with access, landscaping and public open space, on land north of Norwich Common, Wymondham, NR18 OSW.

2. On 13 March 2009 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and planning permission granted, subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

**Policy Considerations**

4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the South Norfolk Local Plan (2003) and the East of England Plan (2008). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR17-25.

5. Other material considerations include, PPS1: *Delivering Sustainable Development*, PPS3: *Housing*, PPS7: *Sustainable development in Rural Areas*, PPG13: *Transport*, PPG16: *Archaeology and Planning*, PPS25: *Development and Flood Risk*, Circular 11/95: *Use of Conditions in Planning Permission*, Circular 05/2005: *Planning Conditions*, and Supplementary Planning Guidance on Affordable Housing and Housing Mix.

6. The emerging Joint Core Strategy is a material consideration, but given that this is some way from adoption the Secretary of State affords it limited weight.

### **Main Issues**

7. The Secretary of State agrees with the Inspector that the main considerations in this appeal are those set out in IR179.

### **The Development Plan**

8. The Secretary of State agrees with the Inspector's assessment of development plan policies as set out in IR180-187.

### **Housing land supply**

9. The Secretary of State agrees with the Inspector's reasoning and conclusions on housing land supply, as set out in IR188-195. He agrees that there is an under-supply of deliverable sites for housing in the Norwich Policy Area and that where there is less than 5 years supply, planning applications for housing should be considered favourably, having regard to the policies in PPS3. Like the Inspector, he considers this to be a material consideration that weighs in favour of the scheme (IR195).

### **Compatibility with PPS3**

10. For the reasons given by the Inspector in IR196-201, the Secretary of State considers that the proposal would largely comply with PPS3, including most of the considerations in paragraph 69 (IR224)). This includes that it would achieve a good mix of housing (IR198) and that it would make effective and efficient use of land (IR200).

### **The spatial vision and policy ENV2 and impact of the development**

11. The Secretary of State agrees with the Inspector's reasoning and conclusions on the spatial vision and policy ENV2, and the impact of the development, as set out in IR202-214. He agrees with the Inspector that the proposal would have an impact on the character of the landscape but that this would be limited (IR214). He also agrees that this harm has to be weighed in the balance with the other material considerations that favour development (IR214).

### **Other considerations**

12. The Secretary of State agrees with the Inspector's assessment of those other considerations as set out in IR216-219. He agrees that the proposal is consistent with PPG13 objectives to reduce the need to travel by private car, and that it is in a sustainable location with services and facilities within walking and cycling distance and available alternative means of travel by public transport (IR217).



### Conditions and obligations

13. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions and obligations, as set out in IR220-221.

### Overall conclusion

14. The Secretary of State concludes that the proposal would be in line with relevant development plan policies and national planning policies, except with respect to local plan policies ENV2 and ENV 8. The Secretary of State is satisfied, for the reasons given, that this conflict does not outweigh the broad compliance with the development plan in all other respects - including that it would help to meet housing need (including affordable housing need), and would be in a sustainable location. Having weighed the relevant matters in the balance, he concludes that there are no material considerations of sufficient weight which would justify refusing planning permission.

### Formal Decision

15. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows the appeal and grants outline planning permission for residential development (class C3) and 460sqm retail (class A1) with access, landscaping and public open space, on land north of Norwich Common, Wymondham, in accordance with application, ref 2007/2703, dated 20 December 2007, subject to the conditions set out in Annex A.

16. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the local planning authority fail to give notice of their decision within the prescribed period.

17. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than that required under section 57 of the Town and Country Planning Act 1990.

### Right to challenge the decision

18. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court.

19. A copy of this letter has been sent to South Norfolk Council and all parties who appeared at the inquiry.

Yours sincerely,

Michael Taylor  
Authorised by the Secretary of State to sign in that behalf

## **Annex A**

### **List of conditions**

- 1) Details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development shall provide for a maximum of 323 dwelling units and no more than 460 square metres of gross retail floor space falling within Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 5) No development shall take place until details, including samples where required, of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Before development commences, a plan shall be submitted to and approved in writing by the local planning authority showing a programme of phasing of development to include the provision of the estate roads, footways and cycleways, fire hydrants, landscaping, open space and play areas and retail development. The phasing plan shall be implemented as approved.
- 7) The landscaping details required by Condition 1) shall provide for a scheme of tree planting and landscaping, which shall include indications of all existing trees and hedgerows on the land, all of which are to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accord with the phasing plan agreed in accord with Condition 6). The scheme shall include a programme for landscape maintenance for a minimum period of 5 years and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) No trees or hedges on the site shall be cut down, uprooted, destroyed, lopped or topped within a period of 5 years from the commencement of development, without the previous written approval of the local planning authority. Any trees or hedges removed without consent shall be replaced during the next planting season November/March with trees of such size and species as agreed in writing with the local planning authority.
- 9) Surface water discharge from the proposed development shall be restricted to a peak flow rate of 16.5l/s 1 in 1 year event, 44.3l/s in the 1 in 30 year event and 65.1l/s in the 1 in 100 year event (inclusive of an allowance for the impacts of climate change).
- 10) On-site attenuation and storage shall be provided for surface water runoff generated in all rainfall events from the current 1 in 1 year rainfall event, up to and including the 1 in 100 year rainfall event (incorporating a climate change allowance of 30% on the peak rainfall intensity).

- 11) The attenuation basin shall be located entirely outside the area at risk of flooding in the 1 in 100 year fluvial flood event, incorporating an allowance for the impacts of climate change, as in drawing number 3653/21/10.
- 12) All built development shall be located outside of the areas at risk of flooding in the 1 in 100 years (including climate change) and the 1 in 1000 fluvial flood events.
- 13) Before development commences, a scheme for the provision and implementation of surface water drainage which has regard to the requirements of Conditions 9), 10), 11) and 12), shall be submitted to and approved in writing by the local planning authority. The scheme shall be constructed and completed in accordance with the approved scheme prior to the occupancy of any part of the development. The scheme shall include a programme for the monitoring and maintenance of all components of the surface water management scheme and shall be implemented as approved.
- 14) No works shall commence on the site until such time as detailed plans of the estate roads, footways, cycleways, foul and surface water drainage have been submitted to and approved in writing by the local planning authority. All construction works shall be carried out in accordance with the approved plans.
- 15) Before any dwelling/building is first occupied the roads, footways and cycleways shall be constructed to Binder Course surfacing level from the dwelling/building to the adjoining County road in accordance with the details that have been submitted to and approved in writing by the local planning authority.
- 16) No works shall commence on site until a detailed scheme for the off-site highway improvement works as indicated on Drawings numbered 3653/03/18 Rev D and 3653/03/03 Rev C has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed prior to the first occupation of the development.
- 17) No works shall commence on site until the details of wheel washing facilities for construction vehicles have been submitted to and approved in writing by the local planning authority and the approved facilities have been installed. For the duration of the construction period, all construction traffic involved in the development shall use the approved wheel washing facilities.
- 18) None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.
- 19) The development shall incorporate the provision of water hydrants for the purposes of fire fighting at a frequency of one hydrant for every fifty dwellings.
- 20) No development shall take place within the site until the applicant, or their agents or successors in title, has:
  - a) caused to be implemented a programme of archaeological evaluation in accordance with a first written scheme which has been submitted to and approved in writing by the local planning authority; and next
  - b) submitted the results of the archaeological evaluation to the local planning authority; and next
  - c) secured the implementation of a programme of archaeological mitigation work in accordance with a second written scheme which has been submitted to and approved in writing by the local planning authority.
- 21) The dwellings shall achieve at least Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved and a copy of that certificate has been supplied to the local planning authority.

- 22) Before development commences, fencing shall be erected in the north western corner of the site in accord with details that have submitted to and approved in writing by the local planning authority for the purposes of creating an area of potential habitat as defined in red on Bioscan Drawing No. E1107F2R1.
- 23) Before development commences, an Interim Travel Plan shall have been submitted to and approved in writing by the local planning authority. No part of the development hereby permitted shall be occupied prior to the implementation of the approved Interim Travel Plan. During the first year of occupation of the 50<sup>th</sup> dwelling that is occupied, a Full Travel Plan, based on the approved Interim Travel Plan, shall be submitted to and approved in writing by the local planning authority. The approved Full Travel Plan shall be implemented in accordance with the timetable and targets contained therein, which shall include a process for annual review, and shall continue to be implemented so long as any part of the development is occupied subject to modifications submitted to and approved in writing by the local planning authority as part of the annual review.



# Report to the Secretary of State for Communities and Local Government

The Planning Inspectorate  
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by M T O'Rourke BA (Hons) DipTP  
MRTPI

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

Date: 1 September 2009

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**TOWN AND COUNTRY PLANNING ACT 1990**

**SOUTH NORFOLK DISTRICT COUNCIL**

**APPEAL BY**

**PELHAM HOLDINGS LTD**

**Inquiry held on 28-31 July 2009**

**Land north of Norwich Common, Wymondham NR18 0SW**

**File Ref: APP/L2630/A/09/2097802**

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## CONTENTS

List of Abbreviations and Acronyms	iii
Procedural Matters	1
Site and Surroundings	1
Planning History	2
The Proposals	2
Planning Policy	3
Other Agreed Facts	5
The Case for South Norfolk District Council	7
The Case for Pelham Holdings Ltd	16
The Case for Interested Persons	29
Written Representations	30
Conditions and Obligations	30
Conclusions	31
Recommendation	39
List of Documents	40
Annex A – Inspector’s comments on suggested conditions	46
Annex B – List of Conditions	48

## LIST OF ABBREVIATIONS and ACRONYMS

#	paragraph
ALP	Allied London Properties
AMR	Annual monitoring report
CLG	Communities and Local Government
DAS	Design and access statement
DPD	Development plan document
dph	dwellings per hectare
FP	footpath
GNDP	Greater Norwich Development Partnership
IHT	Institution of Highways and Transportation
JCS	Joint Core Strategy
LDD	Local Development Document
LDF	Local Development Framework
LP	Local Plan (the South Norfolk Local Plan 2003)
LPA	Local planning authority
LUC	Land Use Consultants
NCC	Norfolk County Council
NPA	Norwich Policy Area
p	page
PPG	Planning policy guidance
PPS	Planning policy statement
RSL	Registered Social Landlord
RSS	Regional Spatial Strategy (for the East of England)
S106	Section 106 obligation
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SNC	South Norfolk (District) Council
SNLA	South Norfolk Landscape Assessment
SOCG	Statement of Common Ground
SOS	Secretary of State
SPD	Supplementary Planning Document
sqm	Square metres

**File Ref: APP/L2630/A/09/2097802**

**Land north of Norwich Common, Wymondham NR18 OSW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Pelham Holdings Ltd against the decision of South Norfolk District Council.
- The application Ref 2007/2703, dated 20 December 2007, was refused by notice dated 2 December 2008.
- The development proposed is residential development (class C3) and 460sqm retail (class A1) with access, landscaping and public open space.

**Summary of Recommendation: The appeal should be allowed and outline planning permission granted subject to conditions.**

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**PROCEDURAL MATTERS**

1. The inquiry was opened on 28 July 2009 and sat for 4 days. It was closed in writing on 17 August. An accompanied site visit was made on 30 July.
2. The application, subject of the appeal, is in outline with all matters other than access reserved for future consideration<sup>1</sup>.
3. On 13 March 2009 the appeal was recovered for decision by the Secretary of State (SOS), for the following reason: that *the appeal involves proposals for residential development (of) on sites of over 5 Hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.*
4. The report includes a description of the site and its surroundings, the appeal proposal and planning history of the site, planning policy, the main points of the cases for the parties and my conclusions and recommendation. I have listed the documents submitted including proofs of evidence. They are as originally submitted and do not take account of how evidence may have been affected by questioning. Opening and closing submissions are also included and are annotated in pen to reflect their delivered content. Conditions to be imposed, if the SOS is minded to grant permission, are annexed to the report.

**THE SITE AND SURROUNDINGS**

5. The appeal site is located on the north eastern edge of the market town of Wymondham<sup>2</sup> which is bypassed by the A11. It lies behind a ribbon of development fronting Norwich Common (the B1172) to the south east with a short frontage to the road between No. 43 and Footpath 26 (FP26), which runs along the track serving the 3 properties at Carpenter's Farm. The south western boundary is formed by Downham Grove, a private track leading from Norwich Common to a small group of houses and industrial units. There is a belt of trees

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<sup>1</sup> The application was made by Pelham Homes Ltd, whose holding company, Pelham Holdings Ltd, made the appeal. Both are wholly owned subsidiaries of Allied London Properties Ltd as set out in APP5 section 1.

<sup>2</sup> See the appellants' drawings 15455/P01, P03 and P05.



- between Downham Grove and the Matthew Homes' development of Whispering Oaks (formerly Greenland Avenue) where 375 dwellings are under construction<sup>3</sup>.
6. The site measures some 12.4ha and is a single field in arable cultivation. It is contained by boundary vegetation including hedgerows and trees, with a linear strip of new planting along the north eastern boundary and another immediately adjoining and outside the site's northern boundary. There is a slight fall in the land from south east (48.9m AOD) to the north west corner (42m AOD)<sup>4</sup>.
  7. To the north east, on farm land between Carpenter's Farm and the properties fronting Norwich Common, the Council has resolved to grant permission for new playing pitches, floodlighting, clubhouse and car park areas for Wymondham Rugby Football Club, relocating from their site in Tuttle Lane. Permission has been granted and work is underway on the construction of two new business units at Elm Farm further to the north east on the B1172. St Edmund's chapel on the opposite side of Norwich Common has permission for use as a day nursery and a new single storey building to the rear<sup>5</sup>.
  8. Between the northern edge of the built up area of Wymondham and Hethersett, approximately 2.5km to the north east, other than some broken ribbons of frontage development, the land is generally flat open fields with some woodland, hedges and scattered hedgerow trees.
  9. There are schools, employment areas and a food superstore nearby<sup>6</sup>. The railway station to the south west of the town centre has services to Cambridge and Norwich. Norwich Common is on a bus route via Hethersett to Norwich.

## **PLANNING HISTORY**

10. A previous application on the appeal site (known then as Norwich Common B) for up to 300 dwellings, access and facilities was refused in November 2004. A subsequent appeal was withdrawn when it was agreed that there was a 5 year housing land supply at that time<sup>7</sup>.
11. The appellants secured permission for the adjoining Greenland Avenue site (Norwich Common A) in 2003. Work is well underway and as at September 2008 Matthew Homes had sold 131 dwellings; a further 46 were pre-sold to Circle Anglia Housing Association; and with around 60+ completions per year, the developers anticipate finishing on site by the end of 2011<sup>8</sup>.

## **THE PROPOSALS**

12. The appeal application is in outline and is for up to 323 dwellings, at a density of 31 dwellings per hectare, and 460sqm of class A1 retail use, to take the form of local shops. Whilst the application form indicates access and landscaping for determination at the outline stage, it was confirmed at the inquiry that landscaping was a reserved matter. A number of elements are intended to be fixed at this stage through parameter drawings covering landscape principles,

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<sup>3</sup> These are best shown on the Master Plan drawing 15455/P06.

<sup>4</sup> APP2 site appraisal plan MDC2 and photographs A to F.

<sup>5</sup> These sites are shown on CD70.

<sup>6</sup> These are shown on Drawing P05

<sup>7</sup> SOCG #3.3

<sup>8</sup> CD57

minimum and maximum storey heights and general layout and framework of development. These parameter plans are listed at Plan A.

13. A Design and Access Statement (DAS) accompanied the application along with detailed reports on transport, flood risk, air quality, services and utilities, noise, soils, archaeology, landscape appraisal, biodiversity and ecology<sup>9</sup>.
14. Access is shown from Norwich Common, beside No. 43, and linking through the site to connect to the Whispering Oaks development. The illustrative Masterplan (Drawing No. 15455/02D) indicates the retention of the existing boundary planting and evidence at the inquiry was that the new tree planting alongside FP26 is also to be retained. The built development is shown pulled away from the north western boundary with a linear area of open space connecting to the open space at the northern edge of Whispering Oaks. An undeveloped area in the north west corner is indicated for surface water run off with part to be fenced off as potential habitat<sup>10</sup>.
15. The appellants indicated that if the appeal is allowed, reserved matter applications would be submitted mid 2010 with the first 25 houses completed by end 2011 and 175 houses by April 2014.

## PLANNING POLICY

16. The development plan comprises the saved policies of the South Norfolk Local Plan 2003<sup>11</sup> and the East of England Plan May 2008<sup>12</sup>. There are no relevant policies in the Norfolk Structure Plan 1999 (SP) that continue to be saved.

### *East of England Plan (RSS)*

17. It is a key driver of the RSS to put in place a framework to promote sustainable development 'especially to address housing shortages' and to concentrate growth at key centres for development and change. The Norwich Policy Area (NPA), first identified in the SP, is one of these key centres, identified as a *new growth point* and an area where development is to meet the objectives of sustainable development, reduce the need to travel and effect a modal shift away from car use. Relevant strategic policies are **SS1, SS2 and SS3**.
18. **Policy H1** sets a minimum regional housing target of 508,000 dwellings in the period 2001-2021. In the Norwich Policy Area, sub-area **policy NR1 Norwich Key Centre for Development and Change** requires completions of 33,000 dwellings by 2021 through the preparation of a Joint Core Strategy by the Greater Norwich Development Partnership (GNDP), made up of Broadland, Norwich City and South Norfolk Councils. It seeks a major shift towards public transport, cycling and walking and identifies major employment growth at Wymondham on the A11.
19. Other relevant policies are **H2** on affordable housing where targets of more than 35% may be justified in areas of housing stress, **ENV1** (green infrastructure) and **ENV2** which requires planning authorities to develop criteria based policies to ensure all development respects and enhances local landscape character.

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<sup>9</sup> CD29 to CD47

<sup>10</sup> As required by Natural England and secured by Condition 23 in SNC6 and plan at APP11.

<sup>11</sup> CD14

<sup>12</sup> CD11

### **South Norfolk Local Plan (LP)**

20. The LP sets out the housing land requirement in **policy HOU1** for provision for about 2,190 dwellings (2000-2006) with 74ha of land allocated. Of the allocations in the Norwich Area in **policy HOU2**, 6.41ha is allocated in Wymondham as a settlement with good communications to the city. **Policy HOU12** sets threshold site sizes for the provision of affordable housing and the supporting text refers to the Council seeking a minimum of 25% affordable units on those sites.
21. The appeal site lies outside the Development Limits of Wymondham<sup>13</sup> identified in **policy ENV7** as one of the main locations for development. Outside the defined Development Limits **policy ENV8** resists development unless for various listed categories of development, none of which apply here. All such development must *iv) respect the intrinsic beauty, the diversity of landscape, the wealth of natural resources, and the ecological, agricultural and recreational value of the countryside; and v) be sensitively integrated into its rural surroundings in terms of siting, scale and design, while avoiding creating ribbon development or an unduly fragmented pattern of development.*
22. **Policy ENV1** deals with the protection of the landscape and *development will not be permitted where it would significantly harm the identified assets important to the character of the landscape.*
23. The appeal site is covered by **policy ENV2** for *Areas of open land which maintain a physical separation between settlements within the Norwich Area.* These areas are described as *'green wedges' of open land that maintain the segregation and individual identities of certain settlements in the NPA and so avoid areas of development 'sprawl' which would be detrimental to the rural character of the area.* In the green wedge of open land between Hethersett and Wymondham *'inappropriate development' and other development which would erode the gaps, identified on the Proposals Map, between the built up limits of settlements, or which would otherwise undermine the general quality of openness of these gaps, will not be permitted.* Inappropriate development is defined in the Glossary using the SP policy N6 definition, as the construction of new buildings other than for certain specific purposes none of which apply here. Confusingly the Key to the Inset Maps describes the areas covered by policy ENV2 as *strategic gaps.*
24. The text supporting policy ENV7 and the strategy for the distribution of development indicates that whilst Development Limits will only endure for the Plan period before being reviewed, the District's environmental assets (including policy ENV2) *will endure beyond the Plan period having been drawn on a more permanent basis and which are intended to provide protection in addition to that under policy ENV8.*
25. In addition, **policies ENV14** (habitat protection), **ENV15** (species protection), **IMP1** (design), **IMP2** (landscaping), **IMP7** (infrastructure provision), **IMP8** (traffic), **IMP9** (residential amenity) and **TRA4** (public transport) are all relevant in order to achieve a good standard and high quality of development.

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<sup>13</sup> The LP Inset Map 62A is at SNC4 Appendix 4 and is Plan E (but without a key).

### ***The emerging Joint Core Strategy***

26. The GNDP is currently consulting on the Joint Core Strategy (JCS) for the NPA. Timing for submission to the SOS has slipped and it is accepted in the SOCG that the Council's last Local Development Scheme (LDS) of January 2009<sup>14</sup> is already out of date. The agreed SOCG anticipates the JCS will not be adopted until 2011 whilst the May 2009 LDS indicates adoption towards the end of 2010<sup>15</sup>. Although a Strategic Housing Land Availability Assessment (SHLAA) has been undertaken by the 3 districts, the Issues and Options document for the Site Allocations DPD is not expected to be released until after the JCS has been submitted to the SOS.
27. The JCS Regulation 25 consultation document<sup>16</sup> was considered by an advisory Inspector<sup>17</sup> in January/February this year in which she commended the level of joint working so far but saw the need for more work and particularly *a full evaluation of option 2a, before you could proceed with confidence to the Examination.*
28. Option 2a is now identified in the subsequent March 2009 JCS for public consultation in Appendix 0 as *the favoured option*<sup>18</sup>. Wymondham is identified as a location to deliver expansion to include *2,200 dwellings located in a number of sites around the town whilst maintaining the strategic gap to the north and north east.* In addition to the 2,200 dwellings in Wymondham, Policy 5 sets out a requirement for a further 1,800 on *South Norfolk smaller sites in the NPA and possible additions to named growth locations.*

### ***Other documents***

29. In 2003 the Council adopted Supplementary Planning Guidance (SPG) on Affordable Housing and Housing Mix.
30. In the LP the supporting text to policy ENV1 refers to Land Use Consultant's Landscape Assessment<sup>19</sup> of the district which established the broad landscape types and the more detailed character areas found in the NPA. Whilst the text goes on to say that the Assessment is to be adopted as supplementary planning guidance the Council was unable to point me to any relevant document that had been adopted.
31. The NCC has standard planning obligations requirements for new development in respect of education, library, fire hydrant and social service provision. These do not take the form of SPG or supplementary planning document (SPD) but are updated annually and a detailed justification/explanation is provided for any contributions that the CC seeks from developers<sup>20</sup>.

### **OTHER AGREED FACTS**

32. On 6 February 2007 the Council responded to a request from the appellants for an Environmental Impact Assessment Screening Opinion confirming that the

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<sup>14</sup> CD66

<sup>15</sup> SNC2 Appendix 6

<sup>16</sup> CD16 and report on consultation at CD17

<sup>17</sup> CD18

<sup>18</sup> CD19

<sup>19</sup> The Landscape Assessment is CD27 and is in 3 volumes.

<sup>20</sup> CD69

- proposed development was considered to represent Schedule 2 development that is unlikely to have significant impact.
33. The DAS demonstrates how the design for the site emerged and how it meets sound design and planning principles. The SOCG contains the positive comments of the Council's urban designer and there is an agreed statement at #6.5 that the scheme would be a high quality housing layout in accordance with the principles of nationally recognised guidance.
  34. It is confirmed in the DAS that the scheme would meet Level 3 of the Code for Sustainable Homes and this could be secured by the imposition of a condition<sup>21</sup>.
  35. In accord with LP policy HOU12, the scheme would provide 25% affordable housing (81 units) and the S106 provides for a greater percentage if grant is available<sup>22</sup>. Heads of Terms have been negotiated with Circle Anglia Housing Association<sup>23</sup>, which has units on the Whispering Oaks development.
  36. Wymondham is a sustainable location for growth and the appeal site is well located in relation to a range of employment opportunities and has access to the major jobs market in the City of Norwich by train and bus (SOCG 6.15).
  37. It is agreed in the SOCG 6.14 that the DAS at pages 12 to 17 explain and show the proximity of the site to community facilities, key services and infrastructure in the town<sup>24</sup>.
  38. Subject to agreed improvements to widen the B1135 Gateway 11 link road (which would be the subject of a S278 Highway Agreement) there are no outstanding highway/traffic issues (SOCG 6.16).
  39. There is agreement with Anglian Water Services on foul water disposal from the site via a pumping station on site with a new rising main direct to the Wymondham Sewage Treatment Works, subject to the requisition appraisal and finalising the route of the main with an alternative route available in the appellants' control<sup>25</sup>.
  40. Surface water discharge rates and a final proposal for disposal have been agreed by the Environment Agency with the use of an attenuation lagoon with discharge into the ditch to the north of the site<sup>26</sup>.
  41. Ecology surveys and protected species surveys have been undertaken. No objection is made by the Council on ecology grounds. No protected species have been found on the site and a condition is proposed that no trees would be removed. As required by Natural England an area of rough grassland is to be fenced off in the north west corner of the site as potential habitat<sup>27</sup>. A Water Vole survey was undertaken of ditches either side of the Gateway 11 link road, which is proposed to be widened. The precautionary approach recommended

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<sup>21</sup> SNC6

<sup>22</sup> Inquiry Document 4

<sup>23</sup> LN21

<sup>24</sup> See also Plan C and the Facilities Plan 15455/p)5.

<sup>25</sup> LN24

<sup>26</sup> LN25

<sup>27</sup> LN23, condition 23 and drawing APP11

would be dealt with through the Section 278 Agreement as part of the implementation of the off-site highway works.

42. It is agreed that as at 1 April 2008 there was only a 4.4 year deliverable housing land supply (HLS), a shortfall of approximately 1,000 units<sup>28</sup>.

### **THE CASE FOR SOUTH NORFOLK COUNCIL**

*The documents for the Council have the prefix SNC. Evidence on housing land supply was given by Mr Marjoram and by Mr Trett on the impact of the development.*

*The main points of the Council's case are:*

43. The development proposed does not accord with the Development Plan. The site lies outside the Development Limits of Wymondham and within an area of countryside which performs an important role in maintaining the separation of Wymondham and Hethersett<sup>29</sup>.

### **Development Limits**

44. These are set by the LP<sup>30</sup> to provide for development proposed by that Plan as is shown by policy ENV7 and supporting text. None of the conditions are satisfied whereby development may be permitted outside Development Limits, and the appeal proposals therefore conflict with policy ENV8.
45. Further, the site lies within an area of land protected by policy ENV2. The development is *inappropriate* in terms of policy ENV2 and *will not be permitted*.
46. Finally, development *will not be permitted where it would* (as this development does) *significantly harm the identified assets important to the character of the landscape*, contrary to LP policy ENV1.
47. In the plan led system, this conflict should lead to a refusal of consent unless material considerations indicate that a different decision should be taken<sup>31</sup>. The appellants rely upon the acknowledged shortfall in housing land supply (HLS), but there are a number of issues relevant to the policy conflict itself which require consideration:
- a. The relevance of the policies of the RSS to the question of whether the proposals accord with the development plan;
  - b. The evolution of policy ENV2 and the basis upon which its boundaries have been drawn;
  - c. The characteristics of the site, its place in the landscape and the impact of its development on the objectives of policy ENV2 and any changes in circumstances which have been put forward by the appellants as part of this exercise; and
  - d. The extent of the shortfall in housing land supply and its consequences.

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<sup>28</sup> This figure was agreed by the Council at the inquiry, the explanation for which is given in SNC1 amended paragraph 2.2.

<sup>29</sup> The decision notice and single reason for refusal is at CD56

<sup>30</sup> CD14

<sup>31</sup> Section 38(6) Planning and Compulsory Purchase Act 2004

## Regional policy

48. The RSS was published in May 2008. Policies H1, ENV1 and ENV2 are agreed to be relevant. Policy H1 sets minimum housing requirements for the period to 2021 across the NPA and so provides the context for the HLS argument said to justify permission in this case. It is not in conflict with the LP, albeit the housing allocations made within the LP were designed to deliver the (lesser) requirements of the 1999 SP over the period to 2006, and beyond via strategic land reserves identified in LP policy HOU3. To deliver the RSS policy H1 housing requirements, SNC, like Broadland District and Norwich City Councils, will adopt Local Development Documents as provided for by the 2004 Act.
49. Neither RSS policies ENV1 or ENV2 are in any sense in conflict with the Environmental Assets chapter of the LP. Mr Newlyn for the appellants put forward an 'ex tempore' theory along these lines which had no foundation in his proof of evidence or in the points put to the Council's witnesses<sup>32</sup>. It is a theory which, he said had '*evolved*'. It is a theory without foundation. These RSS policies are high level contextual policies which reflect the guidance in PPS7 and paragraphs 24-26 in particular. It needs to be borne in mind that the LP policies were saved in September 2007, in the light of PPS7 and at a late stage in the preparation of the RSS<sup>33</sup>. More potently even than this, the earlier PPG7 guidance followed by the LP Inspector emphasised the need for local designations to be based on a rigorous formal assessment. This is also clear from the South Norfolk Landscape Assessment (SNLA)<sup>34</sup>.
50. There is therefore no reason derived from the policies of the RSS to give LP policies ENV1, ENV2 and ENV8 anything less than their full weight in the context of this planning appeal.

## Policy ENV2

51. In terms of its meaning and objectives, the starting point must be the words of the LP itself. The policy is entitled *Areas of open land which maintain a physical separation between settlements within the Norwich Area*. These areas are identified on the Proposals Map.
52. The policy is not to permit *inappropriate development* as defined; nor to permit *other development which would erode the gaps...or which would otherwise undermine the general quality of openness of these gaps*. The objective is to maintain the openness of the land, and to that extent it is reminiscent of Green Belt policy.
53. The wording of the policy has its origin in a SP policy concerned with protecting the historic setting of Norwich. However, the gap between Wymondham and Hethersett was not identified expressly by the SP on the Key Diagram<sup>35</sup>.
54. The deposit version of the SNLP stated the local planning authority's particular concern to maintain segregation between, amongst others, Hethersett and Wymondham<sup>36</sup>. The need for a policy to protect each of these areas of land was

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<sup>32</sup> This was confirmed by Mr Newlyn in cross examination.

<sup>33</sup> The RSS was published the following May in final form.

<sup>34</sup> CD27 Volume 3 #A2.5

<sup>35</sup> CD77

<sup>36</sup> Extracts from the LP Inspector's report are at SNC4 Appendix 7 p22

- endorsed by the first LP Inspector<sup>37</sup>. More significant still, the SNLA report of 2001, commissioned in order to carry forward the recommendations of that Inspector, found the area to include *significant strategic breaks between settled areas* and found that to be a landscape characteristic that is *very characteristic/important of/to* the Settled Plateau Farmland Character Area within which the site lies<sup>38</sup>.
55. Land use Consultants (LUC) were set the task, with PPG7 well in mind, *to identify and understand which specific landscape elements or "assets" are important to the character of the NPA*<sup>39</sup>. They found that *strategic breaks between settled areas are an important landscape asset. A number of strategic breaks have been identified in the Landscape Character Assessment as 'very important' within the NPA and meet the requirement for protection under SP policy N6 and the Inspector's recommended policy RUR A*<sup>40</sup>.
56. This is likely the origin of the label "Strategic Gap" that so exercised the appellants. Although not identified as important at the County level, the area is nonetheless strategic in terms of its significance locally. This is emphasised by the Modifications Inspector's expectation, and that of the LP, that the policy ENV2 boundaries will endure beyond the life of the LP itself, albeit that revisions to them can never be ruled out<sup>41</sup>.
57. As LUC did not think it necessary to define the gaps precisely, the Council used an arrow to indicate its location between Wymondham and Hethersett on the revised proposals map which went to the second LP Modifications inquiry in 2002. That arrow continued along the B1172 past the entrance to Downham Grove. It was agreed to cover the appeal site<sup>42</sup>.
58. The appellants were objectors at the Modifications inquiry, at that time promoting the allocation of land now known as Whispering Oaks, and argued that the gap should be more precisely defined and *The aim of the policy... should be clear and the approach to define only that land necessary to the aim*<sup>43</sup>.
59. The Inspector's report has been looked at closely during the inquiry<sup>44</sup>. He concluded: - *The gaps should not cover more ground than is required for their purpose*<sup>45</sup>. He looked closely at that purpose and took a principled approach to the designation. Yet despite these clear words, the appellants have sought to challenge the view that the Inspector set out to define on the Proposals Map only that which was necessary to maintain the separation of Wymondham and Hethersett.
60. There is nothing in the report to support the contrary. The Inspector was well aware of PPG7 and its advice<sup>46</sup>, which is not materially different from that in PPS7. Indeed, the Council had suggested a different boundary which would have

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<sup>37</sup> SNC4 Appendix 8 #1.1.80-81

<sup>38</sup> CD27 Volume 1 p32

<sup>39</sup> CD27 Volume 2 #1.9

<sup>40</sup> CD27 Volume 3 p16 #B1.10

<sup>41</sup> SNC4 Appendix 11 #1.23 and CD14 p19 supporting text to LP policy ENV7.

<sup>42</sup> SNC4 Appendix 10 and map and Mr Chard's answer in XX.

<sup>43</sup> SNC4 Appendix 11 p8 #1.13

<sup>44</sup> SNC4 Appendix 11

<sup>45</sup> SNC4 Appendix 11 #1.25

<sup>46</sup> SNC4 Appendix 11 #1.19



enclosed more land than the Inspector thought necessary – and so was not supported by him<sup>47</sup>. He excluded the Whispering Oaks site from what is now the policy ENV2 designation, as he considered it was unnecessary (without allocating it for development), and he also excluded land to the west of Spinks Lane. And when he said *necessary* he did so plainly with the objectives of the policy in mind. No other interpretation is tenable.

61. This is consistent with the approach to planning for growth at Wymondham being proposed through the JCS. Wymondham is an historic market town but also well known to be a sustainable location for new development. The Preferred Option, the subject of consultation in March 2009, is to make it a major growth location<sup>48</sup>; 2,200 dwellings are to be located in a number of sites around the town; and that growth is to be achieved *whilst maintaining the strategic gap to the north and northeast*<sup>49</sup>.
62. It follows from this analysis that the appellants' approach – to treat the contribution made by the site to the gap between Hethersett and Wymondham as a live issue – is fundamentally flawed. That issue was determined at the Modifications Inquiry and by adoption of the LP. Furthermore Mr Chard, the appellants' landscape witness, showed no in depth understanding of the significance of the gap, and had not carried a landscape analysis of the gap as a whole, so that his blunt conclusions as to the contribution made by the site to it are inherently unreliable.

### **The impact of development**

63. The unreliability of Mr Chard's conclusions is shown in the way he ignored the effect of including 11-13 dwellings within a plot's depth of B1172. This is that part of the appeal site which directly abuts the B1172 where the access is proposed and which is currently undeveloped frontage immediately beyond the development limits of Wymondham. This break in the ribbon development marks an end to the settlement and is one of the places from which the openness of the land behind is appreciated<sup>50</sup>.
64. Nowhere throughout Mr Chard's lengthy proof and appendices<sup>51</sup> does he recognise the effect on those using the B1172 of building to the frontage here. This is surprising in itself, particularly so when the Modifications Inspector found *It appeared to me that the open land remaining in the frontage to Norwich Road/Norwich Common was the most important element to protect ...*<sup>52</sup>
65. Neither does he pay sufficient regard to the views through the spacious plots adjacent to Skipping Block Row that will mean the presence of development in depth would be appreciated. A point strongly made by Mr Trett. Development of the appeal site would, just as the first LP Inspector believed it would, consolidate the ribbon of development and so erode the gap. The Modifications Inspector commented – *My predecessor noted that the thickening of the ribbon on the*

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<sup>47</sup> SNC4 Appendix 11 p11

<sup>48</sup> CD19 Appendix 0 – the favoured option

<sup>49</sup> CD19 p67 first bullet point for Wymondham

<sup>50</sup> These are photographs E and F which I have attached to the other site appraisal photographs at APP2 tab L1f. The locations from where the photographs were taken have been added to the site appraisal plan MDC-2 at tab L1e.

<sup>51</sup> APP1 and APP2

<sup>52</sup> SNC4 Appendix 11 p11 #1.21

*northern side, by infilling or development in depth, or by development on land behind the ribbon, could have a significant effect on the open impression of the gap, suggesting that the eastern extremity of the settlement boundary [which is the end of Skipping Block Row] is not necessarily the appropriate point to start the definition of the gap*<sup>53</sup>. He did not draw a boundary, leaving it to others based on his description which he indicated as a little further west at Downham Grove.

66. The site is relatively well contained and this was acknowledged by the Council's landscape officer, who nevertheless objected unconditionally. This is also acknowledged in the Council's committee report<sup>54</sup> and in the evidence of Mr Trett<sup>55</sup>. But it does not follow that the presence of development will not be seen and appreciated in the landscape. Three storey elements are proposed, including to the north and east, and despite some *curtailment*<sup>56</sup> of views, they will not be hidden from FP26, and walkers will be well aware that the edge of Wymondham has advanced as far as the footpath itself. While the tree screen recently planted to the north of the site's northern boundary is capable of becoming reasonably substantial, albeit it will not be as strong a boundary as that to Whispering Oaks for many years, it will not prevent these views from the north, nor from other places along the footpath including its junction with the B1172 itself.
67. There are also those who use the Downham Grove – not as a public right of way but by right to access the commercial premises and four dwellings at its end. At present, they have the sense of being on the very edge of Wymondham when they travel along it. With the appeal development, their experience will be completely different, with no sense of the countryside to the east.
68. Moreover, whilst the visual appreciation of harm is very important, visual impact and landscape character impact are not equivalent. The landscape asset protected by LP policies ENV1 and 2 is one of character not visual quality. The character of the landscape (defined in part by the settlement pattern) will be harmed by this consolidation of the ribbon development out into the sensitive gap between Wymondham and Hethersett<sup>57</sup>.
69. Mr Chard went to some lengths to criticise the quality of the countryside within the site, citing the urban influences on its character. This is to misunderstand the purpose of policy ENV2. While the site is plainly influenced by adjoining development and is on the fringe of the urban area - it is also part of the countryside and part of the gap maintaining the separation of Wymondham and Hethersett.

### **The significance of other decisions around the site?**

70. These are indicated on CD70. The grant of permission for Whispering Oaks<sup>58</sup> in response to a shortfall within the South Norfolk area of the NPA demonstrates that the Council is responsible and responsive to housing land shortages on appropriate sites. It was not within the land covered by policy ENV2 and was

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<sup>53</sup> SNC4 Appendix 11 p11 first paragraph

<sup>54</sup> CD54 #5.16

<sup>55</sup> SNC3 #3.3

<sup>56</sup> Mr Chard's word in evidence

<sup>57</sup> CD27 Volume 1 Chapter 7 p30

<sup>58</sup> CD60

promoted at the Modifications Inquiry as an allocation. Although it was not allocated in the LP, the Inspector found there to be no fundamental reason not to develop it for housing<sup>59</sup> in the light of his conclusions on the area for definition within the gap.

71. That development has changed the physical context of the appeal site in that the urban boundary is now on the other side of Downham Grove. But for that to render this land suddenly suitable for development is to invite a field by field destruction of the gap between Wymondham and Hethersett. The next field to go would be the field to the north, whose boundary is not as substantial as that to Downham Grove, or perhaps the Rugby Club site itself or part of it. Certainly the open and pastoral plots on the B1172 frontage between the appeal site and Meadows Cottage are at risk.
72. The appellants appeared to have recognised this risk of precedent during the inquiry and now offer a condition which would in its terms prevent felling of the trees on the field to the north. This open ended condition concerns land outside the appeal site and not in the appellants' control. It is not enforceable and does not meet the tests of Circular 11/95. It should not be imposed. The most that can be done is to require replanting of trees lost on land under the appellants control within the first 5 up to 15 years of a landscape management scheme. The Council is not being churlish in rejecting this offer, but it would not provide the comfort that it is designed to do and therefore is not appropriate in principle.
73. In April 2009 the Council resolved to grant permission for a re-located set of pitches and associated club house for the local Rugby Club<sup>60</sup>. This development is in line with PPS7 encouragement for permitting leisure and recreational uses of the countryside<sup>61</sup>. It does not breach the terms of policy ENV2<sup>62</sup>. It is not *inappropriate development* and there would be no material impact on the openness of the gap.
74. The site of the Rugby Club proposals overlaps with the appeal site and they would share an access. Those visiting the Rugby Club are therefore a further set of people upon whom the impact of development should be considered. They will pass through the appeal site in order to reach the Club, which with the appeal development will be on the edge of the extended urban area, rather than travel along the edge of the field in which they can enjoy the sense of countryside.
75. The other decisions at Elm Farm and St Edmund's are within existing built curtilages and had no effect on the gap<sup>63</sup>.
76. The degree to which the development would erode the gap or undermine its function – the degree of harm – is a material consideration in the overall balance. It has been looked at carefully<sup>64</sup>. Material and permanent harm would be caused to a landscape asset that the LP seeks to protect. Moreover, other identifiable parts of the policy ENV2 designated area would become significantly more

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<sup>59</sup> CD13 p59 #3.32

<sup>60</sup> Inquiry Document 2 SOCG Attachment C

<sup>61</sup> PPS7 #26

<sup>62</sup> Inquiry Document 2 SOCG Attachment C #4.3 of the committee report

<sup>63</sup> CD71 and APP7 LN7

<sup>64</sup> Mr Trett's evidence at SNC3

vulnerable to development pressure; of which there is and will continue to be a considerable amount in this area.

### **Housing land supply**

77. It is well known that the South Norfolk LP allocations took longer to deliver housing than had been hoped. Nevertheless they were and are being delivered. These delays mean that the current housing land requirements are increased to ensure the shortfall is made up over the relevant period<sup>65</sup>.
78. In July 2005 an appeal for similar development on this site was withdrawn when the appellant acknowledged there was an adequate supply of sites<sup>66</sup>.
79. PPS3 was published in November 2006. It emphasises that local planning authorities should be able to demonstrate they had sufficient available suitable and deliverable land over five years. Annual Monitoring Reports (AMRs) are to be the vehicle for this and the April 07-08 AMR was the first for which this requirement had been explicit. PPS3 also introduces the expectation that local planning authorities will build implementation strategies into their development plans and lead in a pro-active manner in response to housing shortfalls, bringing appropriate sites forward by reviewing Development Plan Documents where they judge this to be appropriate. This guidance assumes a fully developed Local Development Framework system, something few if any authorities have yet achieved. Meanwhile it is recognised that the policies of PPS3 may supersede the policies of the development plan<sup>67</sup>.
80. It is therefore of considerable importance and comfort that the spatial vision for the area, which is articulated here by the development plan's spatial policies and the direction of future policy, is given weight in paragraph 69 of PPS3. The policy in PPS3 is concerned with managing the supply of suitable sites and where appropriate bringing forward sites which would otherwise not be developed immediately. It is not concerned with overriding important local designations designed to last beyond the plan period.
81. The report to the Council's Cabinet in August 2007<sup>68</sup> provides no clear evidence of a shortfall in the NPA – albeit it identifies a concern about the Greater Norwich Area as a whole. It correctly identified the GNDP as responsible for the formulation of a protocol to respond.
82. In May 2008 the RSS was published and the housing figures were expressed by policy area. The GNDP is responsible for plan preparation, and this relatively new requirement to work together has its challenges. Nevertheless, the partner authorities have recently been commended for their close collaboration by an independent Inspector<sup>69</sup>.
83. By the autumn of 2008 it was clear that supply deliverable within five years within the NPA was less than that required if RSS requirements were to be met

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<sup>65</sup> CD73A sets out the Council's position on how past shortfalls in completions are carried forward as part of the annual requirement.

<sup>66</sup> Inquiry Document 2 SOCG #3.3 and confirmed by Mr Newlyn in cross examination.

<sup>67</sup> PPS3 #68

<sup>68</sup> CD61

<sup>69</sup> CD18 #25

by 2021. That the South Norfolk district as a whole can demonstrate more than five years' supply is reassuring, but no answer to the RSS policy requirement.

84. SNC take their responsibilities seriously. Land has been released in the past where shortfall has been identified, and another site without the additional protection of LP policy ENV2 might have secured permission<sup>70</sup>. Here however the environmental cost is too great. Further the shortfall is less significant than on other occasions where the SOS has felt it necessary to intervene in local decision making in this way in order to increase supply<sup>71</sup>.

### The HLS figures

85. Within the NPA from a base date of April 2008, it is agreed that there is 4.4 years supply of deliverable sites (that is deliverable by April 2013). The shortfall within the NPA is of the order of 1,000 dwellings. While this sounds substantial in absolute terms, it is a shortfall of less than two thirds of a year's supply and needs to be seen in context. The appellants' evidence by way of Brown and Co's Market Report<sup>72</sup> and the letter from Matthew Homes<sup>73</sup> is that the market in Norwich and its environs has not suffered as much as some places. Assuming 4.4 years supply from April 2008, there is enough land for completions to continue at RSS rates until September 2012.
86. While levels of supply are likely to have declined so that, for the five years from April 2009, it is more likely to be 4.3 years supply than 4.4 years<sup>74</sup>, the shortage of sites remains of a similar order. This would provide to July/August 2013 at RSS supply rates. During the year 2008/09, known to have been particularly hard for the development industry, some 1,202 completions have been reported<sup>75</sup>.
87. By altering the definition of completions, Mr Newlyn reduced the supply further to 4.2 years<sup>76</sup>, but this is the lowest it gets. No estimate of the number of years' supply of deliverable sites falls below 4.2 years. The appellants' 2009 figures are inherently unreliable since they do not capture any new sites which may be coming forward or revised projections by developers in any of the three districts.
88. As the requirements are spread across three authorities, future supply within the NPA is not dependent upon progress with the South Norfolk LDF process. Broadland District Council is already working on its Area Action Plan for North East Norwich; and Norwich City Council is also further ahead than SNC with the preparation of its LDDs. The city is also a much more fluid source of supply being generally reliant on smaller sites.
89. The AMR in South Norfolk only shows sources of supply that are traceable and identifiable. It therefore fails to show the contribution from LDF sites within any of the three authorities, and these will be capable of contributing to supply in SNC even within the 5 year period 2009-2014.

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<sup>70</sup> Mr Marjoram's answer to questions put in cross examination

<sup>71</sup> CD63 and 64

<sup>72</sup> APP7 LN4

<sup>73</sup> CD57

<sup>74</sup> It was accepted by Mr Marjoram in XX that the figure for 2008/09 was "*in the 4.3s rather than the 4.4s*".

<sup>75</sup> APP7 LN16 Simon Marjoram email of 27/7 on completions 2008/09

<sup>76</sup> APP7 LN13A Mr Newlyn's response statement of 21 July 2009

90. The parties disagree on the likely date of adoption of the site allocations DPD; the Council say late 2011 whereas Mr Newlyn said adoption would be later in mid 2012. The evidence is that within 18 months of allocation some of smaller sites will come through. Although this timing was not accepted by the appellants, the LDFs for the three authorities will be contributing to years 6-10 (2015-20) and both the AMR and CD73 need to be read in that light. The AMR excludes contributions from the LDF for the three authorities. Were it to do so a reasoned estimate would have to be given as a list of sites would be premature and open to challenge. The text underneath the trajectory confirms that it assumes no contribution from Norwich post 2012-13<sup>77</sup>.
91. The impression has been given that the NPA is reliant on very large housing sites, which are notoriously hard to deliver in a timely way. There is a very large allocation in Broadland. However an Area Action Plan is already being progressed for that site and the Broadland AMR 2007/08 predicts completion of the first houses at Rackheath by early 2011, ahead of the JCS<sup>78</sup>.
92. Within South Norfolk there is nothing proposed larger than the 2,200 dwellings at Wymondham. Whilst Pelham Homes is promoting a single large site to the south of Wymondham, the preferred option is for the dwellings to be provided on a range of sites around the town<sup>79</sup>.
93. In short, the circumstances in the NPA compare starkly with the two appeal decisions relied upon by the appellants.
94. In the Bromley decision, there had been a continuous housing land shortfall since 1997 and about a 30% shortfall over the first ten years of the UDP. This compares to this authority's 17.6% shortfall to date. Significantly, in that case the UDP Inspector, as well as the Council's own consultants and Chief Planning Officer, had recommended that the site be allocated for development in the context of formal objections by the SOS to the UDP. This was a case of persistent and obstinate failure to plan for the needs of the District<sup>80</sup>.
95. In the case of Burton Latimer there was no dispute that the appeal site was suitable for housing and the Council could only demonstrate 1.9 years supply without reliance on windfall estimates. With windfalls, the supply increased to 2.7 years. Even at that level the SOS considered the supply seriously inadequate. That shortfall was of a different order entirely to that found here<sup>81</sup>.
96. The degree of the shortfall in South Norfolk is not so great that the SOS needs to intervene and grant planning permission on this site in order to achieve the PPS3 objectives<sup>82</sup>. They will best be met by local decision making.

### **Other material considerations**

97. It is accepted in the SOCG that although in outline, the development is capable of achieving high quality housing and an appropriate mix and would contribute towards meeting PPS3 housing objectives. The site is capable of providing

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<sup>77</sup> CD73

<sup>78</sup> APP7 LN15 p3

<sup>79</sup> CD19

<sup>80</sup> See for example CD64 #15 of the SOS decision letter and IR282.

<sup>81</sup> CD63 #10 of the SOS decision letter and IR87 and IR93

<sup>82</sup> PPS3 #10

sustainable development in all respects, other than the loss of a greenfield site that forms part of an essential strategic landscape gap between settlements, and would use land effectively and efficiently<sup>83</sup>.

98. In meeting housing needs it is to be expected that affordable housing needs will also be met since all development should contribute to the policy objective which is the creation of mixed and balanced communities. This is part of the housing land supply case for development made by the appellants. The SOCG identifies that a substantial package of planning obligations *is required in order to deliver appropriate and acceptable development*<sup>84</sup>. The S106 Agreement makes appropriate contributions to, amongst other matters, meeting affordable housing needs.
99. Strong local opposition to further development in the area has been articulated sensitively by those who attended the inquiry and those who wrote. Residents thought there was a commitment to the planting of an avenue of trees alongside Downham Grove. That is no longer proposed. Yet the owners are now proposing to retain the trees in the field to the north. Weight should be given to the impact of continued disruption and development when the residents had reason to expect some finality.

### **Conclusions**

100. There is a balance to be struck here. In granting permission, the SOS will not be bringing forward land that the Council itself recognises as suitable for development, as was the case for Whispering Oaks, but will be insisting on the expansion of the settlement in a direction which the Council has sought and will seek to prevent.
101. In all the circumstances it is submitted that the appeal should be dismissed and permission should be refused.

### **THE CASE FOR PELHAM HOLDINGS LTD**

*The documents for the appellants have the prefix APP. Evidence on housing land supply and planning matters was given by Mr Newlyn; on landscape matters by Mr Chard and Mr Lyell's evidence related to commercial deliverability. The case for the appellants is based on the closing submissions at APP13.*

*The main points of the appellants' case are:*

### **Introduction**

102. The planning context in which the appeal proposals are being promoted is of an existing and acknowledged housing shortfall within the NPA due to an inadequate five year supply of deliverable sites<sup>85</sup>, and an inability of SNC and/or the other GNDP local planning authorities to bring forward any sites through the DPD process to make up that shortfall. Other than in respect of the application of its environmental policies, as the appeal site is located on the edge of the

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<sup>83</sup> Inquiry Document 2 #6.5 to 6.23 and SNC3 #4.1 to 4.3.

<sup>84</sup> Inquiry Document 2 SOCG #6.36

<sup>85</sup> CD2 #70

built-up area of Wymondham within a policy gap, the Council accepts that the proposals accord with the requirements of PPS3<sup>86</sup>.

103. The appeal site is in a sustainable location on the current edge of Wymondham, a market town which has already seen significant expansion over the last ten years. Wymondham has been identified by the GNDP as being capable of taking considerable further growth due to its proximity to Norwich, its ready access to transport communications and ability to offer a wide range of current employment opportunities, local shopping and other facilities. Its sustainability credentials have previously been endorsed by both South Norfolk Local Plan Inspectors<sup>87</sup> and most recently by the sustainability appraisal for the current JCS<sup>88</sup>.
104. Despite the current state of the housing market, the continuing rates of house sales within Wymondham have continued to reflect its attractiveness including, significantly, the adjoining Whispering Oaks new housing site where there continues to be a good take-up of a range of market and affordable homes, similar to those proposed for the appeal site<sup>89</sup>.
105. Following detailed advance investigations of technical issues<sup>90</sup>, there is no impediment to the early commencement of development and the ability to deliver 175 houses by April 2014 (assuming a successful determination of this appeal by December 2009)<sup>91</sup>. Accordingly, given the favourable approach advocated in PPS3<sup>92</sup>, this is the type of housing site that should be released now through the development control process.

### **The housing supply issue**

106. A key objective of the RSS is to address housing shortages within the region by securing a step change in the delivery of additional housing particularly at the key centres for development and change, such as Norwich<sup>93</sup>. The Council was advised as early as the RSS Examination Panel Report<sup>94</sup> (June 2006) and reminded by the SOS's Modifications (Dec 2006)<sup>95</sup> that tripartite arrangements should not be a reason for the delay of the LDF process, clearly because of the consequences on the housing land supply position.
107. Both the appellants and Council are agreed that there is less than a five year housing land supply within the agreed NPA set out within the RSS<sup>96</sup>. Awareness of that shortfall and the rapid decline in deliverable sites after March 2011 was well known by the Council in August 2007<sup>97</sup>, and that a protocol was required for potentially releasing additional housing land in advance of sites being allocated in the respective LDFs of the GNDP authorities. But other than slowly progressing a

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<sup>86</sup> SNC3 Mr Trett's Proof #4.1.

<sup>87</sup> CD12 and CD13

<sup>88</sup> CD20

<sup>89</sup> CD57

<sup>90</sup> See Core Documents CD31 to CD47

<sup>91</sup> APP7 LN5

<sup>92</sup> Para. 71

<sup>93</sup> CD11 p.6 and policies H1 and NR1.

<sup>94</sup> CD11A

<sup>95</sup> APP6 p16-17

<sup>96</sup> CD11 policy NR1. See also plan (e.g. @ p.69 of CD19 of the Norwich Policy Area ("NPA"))

<sup>97</sup> CD61- Report of Head of Planning Services



JCS nothing has practically taken place to meet the objectives of PPS3 of ensuring a continuous supply of deliverable housing sites. Since that time, the effects of the severe delays over the achievement of a JCS for Broadland, Norwich and South Norfolk Councils, will mean that site releases through an adopted Site Allocations DPD are not expected until mid 2012. This will put back the realistic completion of dwellings until 2015, beyond either of the current five year study periods<sup>98</sup>.

108. The Council acknowledged the extent of the under-supply within the NPA in its publication of its draft AMR for 2007/8 on 1 December 2008 for Cabinet endorsement<sup>99</sup>. The AMR showed a figure of 4.44 years at the assessment base date of 1 April 2008, a shortfall of at least 1,000 dwellings. These figures are now reluctantly agreed by the Council to be correct following the submission to Go-East of an AMR that gave a figure of 4.68 years<sup>100</sup>. The shortfall was and has remained *significant*<sup>101</sup>.

109. Although the Council has been unwilling to provide a comparable figure for 1 April 2009 it accepted, in the context of this appeal, that the supply (a year later) has worsened, standing at 4.34 years and increasing the shortfall to at least 1,250 dwellings<sup>102</sup>. Mr Newlyn's estimates<sup>103</sup> place the supply position at 4.3 years for 1 April 2008 and 4.2 years for 1 April 2009.

110. The difference between the parties principally lies in the definition of '*completion*' with Mr Newlyn adopting a uniform and more reliable test of '*fit for habitation*' in contrast with the Council's reliance on '*plastered state*' for anticipated future completions<sup>104</sup>.

111. There is also a continuing inability on the part of the Council and its fellow GNDP authorities to bring forward sites quickly through the LDF process and/or invite applications through the development control process. The exercise undertaken by the Council during the inquiry<sup>105</sup> to assess the annual flow rate of forward developments in the period April 2008 to March 2021 has starkly revealed the true extent of the shortfall<sup>106</sup>; the Council's projection falling short by some 13,560 dwellings of the RSS requirement for 33,000 dwellings.

112. It will require significant house building activity when coming out of a recession to achieve completions of 2,275 dwellings per annum over 6 years from 2015 if the RSS target is to be met by 2021. Given that the types of site required to deliver these numbers are still being identified and will take at least three to five years to bring forward<sup>107</sup>, such expectations are wholly unrealistic.

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<sup>98</sup> APP6 p18-20

<sup>99</sup> APP7 LN8 is the AMR taken to Cabinet showing 4.4 years.

<sup>100</sup> The difference is the result of including figures from Broadland now accepted by the Council as unreliable (Mr Marjoram's proof at SNC1 amended paragraph 2.2). The AMR showing 4.68 years supply sent to the GO is at APP7 LN14.

<sup>101</sup> Mr Marjoram in xx, Day 1

<sup>102</sup> Mr Marjoram in xx, Day 1

<sup>103</sup> APP7 LN16

<sup>104</sup> LN18A and LN18B

<sup>105</sup> CD73

<sup>106</sup> Mr Newlyn in xx sought confirmation that CD73 included everything, and was reassured that it did in the opinion of Mr Marjoram (see also Council's closings SNC8 #48).

<sup>107</sup> Mr Newlyn in xx

This unreality is compounded by the need to re-plan Norwich city flatted schemes to more traditional housing<sup>108</sup>.

113. In consequence, at the present time, the appeal proposals provide the only realistic and deliverable opportunity to reduce the growing supply shortfall.

### **The proposals**

114. The appeal site is suitable in all respects for housing development and can bring forward a range and choice of both market and affordable properties. It is in a location for which there remains a demand even in the current recession, which is sustainable and which has been recognised as the next best location for housing growth outside Norwich City and its urban area. It is a readily developable site with no constraints and strong commercial incentives to bring forward, even in the current economic climate<sup>109</sup>.
115. Although all matters of detail are reserved for future approval with the exception of access (the design of which has been agreed with the Highway Authority) an achievable scheme has already been designed in consultation with the Council's Urban Design Officer to speed reserved matters approvals. A number of elements are capable of being fixed at this stage, including landscape strategy, minimum and maximum storey heights, overall housing layout and framework. These parameter plans are agreed with the Council as being appropriate if the principle of development is granted by the SOS<sup>110</sup>.
116. A significant package of planning benefits has been requested by the Council which are secured by a S106 Agreement<sup>111</sup>. Chief amongst these will be the provision of 81 units of affordable housing. Heads of Terms have now been agreed with Circle Anglia (a Housing Association), importantly without the need for social housing grant<sup>112</sup>. Up to 10% more affordable housing is capable of being delivered should grant funding be made available, meaning that 35% affordable housing could be provided in total. The provision of the 81 units will make a meaningful contribution towards helping to reduce a substantial unmet need within the NPA<sup>113</sup>.
117. Pelham Homes is committed to ensuring delivery of the proposed new housing, to the extent of using the skill and expertise of its parent company, Allied London Properties Ltd, to project manage the development. The on-going management of the completed development and its greenspaces would be by a not for profit management company<sup>114</sup>. The maintenance and enhancement of biodiversity will be encouraged through the proposed landscape and management strategy<sup>115</sup>.
118. The indicative programme for delivery, which the Council has agreed<sup>116</sup>, anticipates the completion of the first 25 homes by December 2011. Thereafter, a regular development rate will be maintained (50 homes by January 2013 and

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<sup>108</sup> Mr Newlyn in xx

<sup>109</sup> Mr Lyell's evidence in chief and in re-examination

<sup>110</sup> Inquiry Document 2 SOCG #2.11

<sup>111</sup> Inquiry Document 4

<sup>112</sup> APP7 LN21

<sup>113</sup> APP6 pp 29-31

<sup>114</sup> APP5 and Mr Lyell's evidence in chief and in answer to Inspector questions.

<sup>115</sup> APP3, APP7 LN23 and RSS policy ENV3

<sup>116</sup> Inquiry Document 2 SOCG p27/8 #6.34 etc

75 homes each year for the next three years), delivering 175 of the dwellings by April 2014. Given the particular location of the proposed development next to the Whispering Oaks site, which has continued to perform well during the current recession, sales rates are expected to be in line with those at which Norfolk volume developers have been comfortable to build. This assessment has been endorsed by Brown & Co, a leading local estate agent<sup>117</sup>. In short, the scheme is capable of making a meaningful contribution to the five year supply position.

119. Accordingly, this is the type of new housing development which is readily deliverable in the terms identified by the SOS through PPS3 and related advice. In this respect, the Council agrees that the proposed scheme is capable of meeting the requirements of PPS3 in terms of delivering an appropriate range, quality and type of modern housing, and related facilities<sup>118</sup>.

### **The Council's reason for refusal**

120. Given the lack of a 5 year housing supply, the shortfall in housing numbers, and the absence of previously developed land within Wymondham (and within the SNC administrative area), the only sustainable location for new housing is on the town's urban edge in currently designated *countryside* for the purposes of LP policy ENV8. It was accepted by the Council that but for the gap policy ENV2 policy ENV8 was capable of being overridden<sup>119</sup>.
121. The breach of LP policy ENV2 that arises from the site's location is outweighed not just by the need for the proposals to help reduce the housing shortfall but also by six further material considerations. As the site is not covered by any landscape designation other than that arising from policy ENV2 then no further policy issues arise in respect of the application of policy ENV1. Again, this approach has been acknowledged by the Council<sup>120</sup>.
122. Six considerations explain the absence of harm that will arise from the breach of policy ENV2.

### **Status of the gap**

123. It has now been conceded<sup>121</sup> that the site does not fall within a *strategic gap* and that the terms *green wedge* or *gap*, as actually found in the wording of policy ENV2, should be applied. This is because the area of land between Wymondham and Hethersett was not identified, either in the 1993 or the 1999 SP, as requiring that level of protection which was reserved for the Hethersett to Cringleford and Costessey to Easton areas, as shown on both Key Diagrams<sup>122</sup>. This is unsurprising, given that the LP was required to be in general conformity with the 1999 SP.
124. The term *strategic gap* is found in the key to the LP Proposals Map for ENV2 notated land. However where there is a conflict between the written text and the Proposals Map in the application of such a notation, the written

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<sup>117</sup> LN4. Brown & Co Market Report.

<sup>118</sup> Inquiry Document 2 SOCG # 6.4-6.19

<sup>119</sup> Mr Marjoram in xx, Day 1

<sup>120</sup> Mr Trett in xx Day 2

<sup>121</sup> Mr Trett in xx Day 2

<sup>122</sup> CD76 and CD77 (policy N6 of the 1999 NSP)

text prevails as to the status of the land<sup>123</sup> as a local green wedge/gap and this was recognised by the Council in closing.

### ***Boundaries of the gap***

125. The gap identification process exercise undertaken through the preparation of the LP did not lead to the permanent fixing of the boundaries of this particular designation. Both the Local Plan Inspectors recognised that while gap boundaries should have a degree of permanence they would not prevent future allocations if there were a recognised need<sup>124</sup>. The development requirements being considered were for a plan period which ran out in 2006.

### ***Review of the boundaries***

126. There is a requirement now to review gap boundaries. This arises from the need to meet the growth requirements for Norwich under the RSS<sup>125</sup>, a point recently restated by the JCS Audit Inspector who questioned why the retention of strategic gaps should still be an overriding concern of the GNDP authorities<sup>126</sup>. It is noteworthy that the GNDP has raised no objection to the appealed application. This is unsurprising given that its recently published favoured option for housing strategy allocates 2,200 dwellings to Wymondham on large sites plus a further total of 1,800 dwellings on smaller to medium sites<sup>127</sup>.

127. This DPD process has not yet reached the stage of publishing draft site allocations or directions for growth. No PPS7 exercise<sup>128</sup> has been undertaken to establish the continuing justification for any gap notation to the north and north east of Wymondham, in line with RSS policies<sup>129</sup>. The fact that LP policy ENV2 has been saved does not absolve the Council from this requirement.

128. It should be noted that the Council's concern about the effect of the appeal proposal on the spatial vision for the area was only that under the existing environmental policies of the LP<sup>130</sup>. In the absence of a formal review it is necessary and appropriate for the development control process to consider this type of exercise with regard to the acceptability of the proposals.

### ***Development in the gap***

129. Since the LP was adopted in 2003 the Council has already recognised the robustness of this countryside gap<sup>131</sup> to absorb other development. In particular its resolutions to grant consent for speculative office and storage buildings at Elm Farm<sup>132</sup> in 2005; a new Nursery School on Norwich Common<sup>133</sup> in 2008; and, most recently in April 2009, the Wymondham rugby football club (RFC) relocation

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<sup>123</sup> Reg.33 of the Town and Country Planning (Development Plans) Regulations 1991; reg. 44 of the 1999 Regs.

<sup>124</sup> APP6 p34-38

<sup>125</sup> CD11, policies H1 and NR1

<sup>126</sup> CD18 #21

<sup>127</sup> CD19 p.65-68. Appendix O – the favoured option. Mr Marjoram also confirmed in xx that these sites could be in or around Wymondham and up to 300 dwellings in size.

<sup>128</sup> PPS7 #25 and, in particular, the need for formal and robust assessment.

<sup>129</sup> CD11 RSS policies ENV1 and ENV2

<sup>130</sup> SNC3 #4.2 and Mr Trett in xx, Day 2

<sup>131</sup> Inquiry Document 2 SOCG #2.1

<sup>132</sup> LN7

<sup>133</sup> CD71

ground<sup>134</sup> with its new access road, clubhouse, playing pitches and high mast flood lighting, immediately to the east of the appeal site. In reality, with the forthcoming re-location of the new RFC ground, sufficient change will occur such that the appeal proposals will be read in the context of urban fringe activities. The new RFC ground is capable of acting as a break for development continuing along and behind the Norwich Common frontage<sup>135</sup>. This is a material change in planning circumstances since the Council's refusal in late 2008.

### ***Lack of visual contribution***

130. The site, even in its undeveloped form, does not make a visual contribution to the gap being defined by current and forthcoming development on 3 of its 4 sides. As a result of its proximity to the built up area and related visible urbanising influences<sup>136</sup> it is different to the more rural and truly open countryside to the north and east. The visual appraisal demonstrates that the site cannot be considered to be within the open countryside due to its containment and physical/visual enclosure by adjacent built forms and a robust structure of field boundary hedgerows, tree belts and woodland, both on the site and in its vicinity<sup>137</sup>. There are no elevated views in which the site can be appreciated in its own right or its contribution to the gap<sup>138</sup>. It does not constitute an important component of the landscape between Wymondham and Hethersett which enables a physical separation to be maintained. Its continued retention in an undeveloped state is not essential to ensure that coalescence does not occur.

### ***Lack of impact***

131. There will be a lack of impact on the visual appearance of the gap. The appeal proposals limited visibility reflects the discreet location of the site. Their lack of impact is also due to the backdrop of Whispering Oaks and the skyline features of the commercial buildings on the edge of the town. It is acknowledged that change will occur, as with the walking experience of the existing residents at the northern end of Downham Grove. But, in overall terms, the limited visual impact of new built development reflects the inherent suitability of the site<sup>139</sup>.

### ***Specific issues***

132. The offer of additional visual protection by the long-term retention of the existing tree belt in the field to the north of the appeal site is seen as desirable but not essential. The change arising from the new point of access onto Norwich Common has to be considered in the context of the permitted access for the new RFC ground, the design of which, for adoption purposes, will be common to both schemes, and, at a point in the existing frontage development where the second LP Inspector described the development as it *thickens out* to embrace the Skipping Block Row estate development.

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<sup>134</sup> CD62. It is Pelham's understanding that the consent will be issued shortly following the decision by Go-East not to "call-in" the application. It is the RFC's intention to implement the consent by starting pitch preparation this Autumn

<sup>135</sup> This is a key characteristic of the gap – see the SNLP Modifications Inspector Report at CD13 #1.21.

<sup>136</sup> Eg. the new Police HQ

<sup>137</sup> APP1 and visual appraisal plan MDC-3 (at APP2 L1g)

<sup>138</sup> Mr Trett in xx, Day 2

<sup>139</sup> APP2 Appendix L1k Mr Chard's Viewpoint Description, predicted effects and their significance to his Visual Appraisal. Also note the lack of challenge to his methodology, which followed the LI/IEMA Guidelines for Visual Impact (2002) (CD28).

133. The Council has asserted precedential harm. The point was put late in closing<sup>140</sup>, is speculative and does not meet the legal requirement to demonstrate likelihood – there has to be sufficient prospects of events occurring. The absence of weight that should be given to this assertion is evident from: (a) that this is a proposal intended to deliver a certain and early result, the individual circumstances and merits of which are site specific; and (b) that the Council cited no specific circumstances where a current application or other known scheme was awaiting the outcome of this appeal or another site which displayed the same or better characteristics.
134. Accordingly, no material harm will arise to the breach of the LP environmental policies and, in any event, if there were such harm it would be far outweighed by the ability of the proposals to make an early and meaningful contribution towards reducing the current, continuing, housing shortfall.

### **The Secretary of State's issues**

135. These are dealt with in the SOCG.

#### ***a) The extent to which the proposed development would be in accordance with the development plan for the area.***

136. The development plan is agreed to comprise the RSS and saved LP policies. There is now a conflict between the growth based policies of the RSS and the environmental restraint policies of the LP. Specifically, RSS policies H1 and H2 require the release of housing and affordable housing to meet *at least* the housing requirements to 2021. Policy H1 also requires the supply of housing land to be managed in accordance with PPS3 and the LDDs to facilitate the delivery of the *at least* total number of dwellings for the NPA. There are no LDDs for the NPA at present, in consequence of which the PPS3 requirement for a continuous 5 year supply to be demonstrated at all times carries particular weight, and, together with the reasons set out above, outweigh the LP environmental policies.
137. Additionally, the housing need provisions expressed for the NPA cannot be met by the supply of affordable dwellings projected to come forward over the next 5 years. The appeal site will produce at least 25% affordable dwellings of the total number of dwellings proposed which accords with current SNC affordable housing policy for 25% of the total number of dwellings to be affordable<sup>141</sup>.

#### ***b) The extent to which the proposed development is consistent with Government planning for housing policy objectives in PPS3 Housing, with particular regard towards delivering the following:***

- (i) high quality housing that is well designed and built to a high standard.*

138. This is an outline application with access and parameter plans submitted for approval and to that extent design can be controlled. The DAS demonstrates how the design for the site emerged and how it meets sound design and planning principles. The sections on urban form, character areas and frontage treatments, access, circulation and car parking all show that the scheme will be a high quality housing layout in accordance with the principles of nationally recognised design guidance. They have been endorsed by the Council's urban designer.

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<sup>140</sup> SNC8 #31 and 36

<sup>141</sup> CD14 policy HOU12 and supporting text and SPG at CD23

139. The DAS confirms that Code Level 3 of the Code for Sustainable Homes will be provided and a planning condition to that effect is proposed.

*(ii) a mix of housing, both market and affordable, particularly in terms of tenure and price, to support a wide variety of households in all areas, both urban and rural.*

140. Subject to the operation of a cascade mechanism in the S106 agreement, the agreed basis for the mix of housing to be provided is 25% affordable and 75% market. The 25% affordable housing units are to be provided in a mix of sizes and tenure which meet the requirements of the Housing Officer and which are taken from the latest Housing Need Statement<sup>142</sup>.

141. The mix of sizes of private housing will be throughout the range 2, 3, 4 and 5 bedrooms and in the form of terraces, semi-detached and detached as shown in the DAS.

*(iii) a sufficient quantity of housing taking into account need and demand and seeking to improve choice.*

142. It is agreed that the relevant area of assessment for housing supply purposes is solely the NPA. To the extent to which the 5 year housing supply test represents an indication of meeting demand, then demand is not being met within the NPA. Need, in terms of meeting the affordable housing needs for the NPA, as set out in the 2006 Housing Need Statement<sup>143</sup>, is not being met by the current and projected supply of sites.

143. The appeal site is capable of delivering both market and affordable housing to meet both demand and need at a rate which is realistic and achievable. Choice will be provided both by the location of the site in Wymondham and the variety of sizes and tenure of housing to be provided. The development will provide a large proportion of family housing with gardens compared with the high proportion of flatted development that makes up the supply in the Norwich city market. The take up of the Matthew Homes development at Whispering Oaks shows that demand for these types of properties is continuing and, except for one other outstanding housing commitment in Wymondham, cannot be otherwise achieved in the immediate future.

144. The range of unit sizes and tenure is covered in (ii) above.

*(iv) housing developments in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure.*

145. Wymondham is identified as a sustainable location for development in the following documents:

- South Norfolk Local Plan Inspectors Reports 2000 and 2002<sup>144</sup>
- JCS Issues and Options: Report of Consultation<sup>145</sup>
- JCS Regulation 25 Preferred Options Stage 1 (August 2008)<sup>146</sup>
- JCS Audit Inspector's Report (February 2009)<sup>147</sup>

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<sup>142</sup> CD24

<sup>143</sup> CD24

<sup>144</sup> CD12 & CD13

<sup>145</sup> CD17

<sup>146</sup> CD16

- JCS Sustainability Assessment (March 2009)<sup>148</sup>
- JCS Regulation 25 Public Consultation (March 2009)<sup>149</sup>

146. The DAS<sup>150</sup> shows and explains, with plans, the site's proximity to community facilities, key services and infrastructure in the Wymondham area.

147. The site is within easy reach (less than 1km) of a range of employment opportunities at Waitrose and the Gateway 11 Employment Park, which includes the Norfolk Police Headquarters. Access to the major jobs market in the City of Norwich is via train from Wymondham Station (2.7 km from the site) and by bus (routes 14 and 15), which travel past the site and serve the western side of the city centre.

148. In terms of infrastructure, the Highway Authority has confirmed that the development can be accommodated within the existing highway network, subject to off-site improvements to widen the B1135 Gateway 11 link road which will be covered by a Section 278 highway works agreement.

149. Anglian Water Services are satisfied that the site can be serviced with minor improvements to the sewage works and the provision of an appropriate foul drainage connection<sup>151</sup>. Other utilities can be provided from Whispering Oaks.

*(v) a flexible, responsive supply of land - managed in a way that makes efficient and effective use of land, including re-use of previously developed land, where appropriate.*

150. The proposed density is 31 dwellings per hectare (dph) which mirrors that of the Whispering Oaks site. It exceeds the national requirement of 30dph and yet still provides open space and landscape proposals which ensure the development will be highly attractive.

151. The 2007/8 AMR noted that the percentage of homes completed on previously developed land in the district reduced to 20% from a high of 38.8% in 2005/06<sup>152</sup>. It also noted that completions on greenfield land are expected to continue for the foreseeable future.

152. It is anticipated that 175 of the 325 dwellings will be completed within the 5 years, thus the site will be flexible and responsive to the supply of managed land.

***(c) The extent to which the proposed development is consistent with the advice in Planning Policy Guidance Note 13: Transport***

153. PPG13 and the Institution of Highways and Transportation (IHT) give guidance of the distances within which facilities are within reasonable reach via walking, cycling and public transport use. These distances are realistically capable of achievement by the appeal development, thereby ensuring genuine alternatives to the motor car as a mode of transport and a consequent reduction in its use<sup>153</sup>.

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<sup>147</sup> CD18

<sup>148</sup> CD20

<sup>149</sup> CD19

<sup>150</sup> CD47

<sup>151</sup> LN10 & LN24

<sup>152</sup> CD21

<sup>153</sup> PPG13 #4



154. Comparing the site with the IHT parameters shows that many facilities are within a reasonable walking distance and all within reasonable cycling distance.

<b>Facilities</b>	<b>Distance</b>
Nursery	700m
Infant School	1200m
Junior School	1800m
High School	1800m
Local Shopping Centre, including Post Office	1100m
Food Superstore	700m
Employment/Industrial Zone	700m
Town Centre including Library, Banks, Restaurants etc	2500m
Railway Station	2700m
Doctors, Dentists, Health Centre	2300m
Fitness Club & Swimming Pool (2)	1900m
Community Centre	1100m

#### *Pedestrian Facilities*

155. These facilities have been considerably upgraded recently due to other local development. Footway/cycleway provision has been improved which provide links to the town centre and a safe and direct route to local schools, shops and the community centre, which will be provided around and through the neighbouring development.

#### *Cycle Facilities*

156. The proposed development lies close to Norwich Common from where there are off road cycle paths leading towards a network of quieter residential streets and lanes which form the area immediately surrounding the centre of Wymondham. This provides a safe and convenient alternative to the use of cars to access local shops and amenities. Suitable links will be provided between the development and Norwich Common to encourage the use of cycling as an alternative mode of transport. Other routes link the development to Wymondham Town Centre.

157. As part of its cycling strategy, the CC has a long term objective to construct a dedicated cycle path between Norwich and Wymondham along the B1172. This route has already been completed from Norwich to Hethersett, which is approximately 2.5km from the Site. There is also a dedicated cycle path from Wymondham to the south and it is intended that it will be extended from Downham Grove across the site frontage as part of the route.

#### *Public Transport*

158. The use of public transport by residents in the development will be governed by its accessibility and frequency. Bus stops are located on Norwich Common, within 400m of the site and consideration will be given to the possible relocation of the existing bus stop or the provision of a new bus stop near to the development to optimise bus use by residents. The buses operating along

Norwich Common go to the town centre and Norwich. Details of these services, the operators and level of provision<sup>154</sup> demonstrate good frequencies daytime and hourly in the evenings on Mondays to Saturdays and hourly on Sundays. In addition, there are 9 National Express Airport buses each day to Stansted, Heathrow and Gatwick and 2 National Express coaches per day to London which run from a dedicated coach stop in the town centre.

159. A minibus is used in the Wymondham area to provide off peak journeys to Wymondham so that people can make onward journeys by bus to Norwich or by rail to Norwich and destinations further afield. The service operates on a Dial-A-Ride basis.
160. These various services demonstrate that the site conforms to the Norfolk Bus Strategy and there would be excellent bus links providing future residents of the development with an effective alternative to the use of their cars.

#### *Railways*

161. Wymondham is the only town within the NPA which benefits from its own railway station. The station lies on the main line between Norwich and the Midlands and train services. From stations along the route, changes can be made to access the wider rail network, including onward connections to London and to the North. The site is within comfortable cycling distance of the railway station (2.7km) providing the opportunity for linked modes of transport. The station has ample covered cycle and motorcycle parking on the station forecourt. A bus service along Norwich Common provides a half hourly bus service between the development site and Wymondham station.

#### *Car Parking*

162. Car parking will be provided at a maximum of two spaces per dwelling to conform to the provisions of local car parking standards. The size of development and floor area of the commercial use is less than the thresholds set out in PPG13.

#### *Travel Plan*

163. A Travel Plan for the site has been prepared and the action targets for implementation and monitoring have been calculated, the contents of which are agreed as being appropriate and acceptable by the Local Highway Authority, which will monitor the working of the Plan and provide a Co-ordinator. These will show how the future residents could change their travel patterns to make more sustainable movements in the future and the arrangements are included as a S106 obligation.

#### **(d) *The matters raised in South Norfolk Council's decision dated 2 December 2008***

164. These matters have been already covered in detail in the sections above.

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<sup>154</sup> Inquiry Document 2 SOCG #6.27-6.29

**(e) Whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the proposed terms of such obligations are acceptable.**

165. A substantial package of planning obligations is offered in order to deliver an appropriate and acceptable development. They cover the following matters:

- Affordable Housing
- Education Contribution (these are in line with Norfolk County Council Obligation Standards<sup>155</sup>)
- Library Contribution (these are in line with Norfolk County Council Obligation Standards)
- Recreational Space
- Travel Plan
- Community Contributions
- Balancing pond
- Fire Hydrants
- Highway Works

166. The obligations are those which have been sought by the District and County Council. They have been tested and the appellants are satisfied that each of the requirements is justified and meets the tests in Circular 05/2005.

**(f) Whether any permission should be subject to any conditions and, if so, the form these should take.**

167. These were discussed at the inquiry and most are agreed. Whilst the Council expressed concern in closing<sup>156</sup> at the legality of a condition to retain the trees in the field to the north, such additional control, if required, could be secured by condition. The appellants may not have legal ownership of the land but such a condition would still be enforceable. Its necessity and suitability is for the Inspector to determine.

168. The application is in outline but much effort has been put into working up the detail of the scheme and the preparation of parameter plans for the landscape and open space strategy, layout and building heights. If the appeal is allowed and permission granted, the Council has asked for a further Masterplan to be submitted for approval prior to any reserved matters application. This is unnecessary and wastes time. Instead a condition would be sufficient requiring that the submission of details comply with the existing parameter plans, which officers considered to be acceptable, along with the submission of a phasing plan.

### **Third Party Concerns**

169. Local residents who spoke at the inquiry, and others who wrote, raised concerns about drainage, wildlife, noise, access and watercourses. These are all capable of being dealt with in a satisfactory and neighbourly manner<sup>157</sup>. As to the concern about planting alongside Downham Grove, Matthew Homes obtained detailed consent and negotiations with the Council lead to the deletion of the proposed avenue of trees. It could be reinstated as part of any detailed

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<sup>155</sup> CD69

<sup>156</sup> SNC8 #32

<sup>157</sup> See the detailed notes in APP7 LN22 to LN27.

submission but has not so far been considered appropriate by the Council's own Urban Design Officer. A Phase 1 Ecology Survey has been undertaken and no protected species were found to be using the site although it was noted that some trees might support bat roosts. Natural England raised concerns in its original consultation reply but was satisfied, following assurance from the appellants' ecological advisers that no mature trees were to be removed, that this could be appropriately addressed by the imposition of a condition on any permission granted<sup>158</sup>.

### **Overall Conclusion**

170. In all the circumstances, planning permission should be granted for the appeal proposals subject to appropriate planning conditions and to the S106 Agreement.

### **THE CASE FOR INTERESTED PERSONS**

171. **Mrs Hawes** has lived in Norwich Common for 40 years and her garden backs onto the appeal site. Her objections are set out in her letter to the Council of August 2008. The field has flooded over the last two years because of water from the B2272 in the ditch. If development takes place her garden could flood. There are already problems with foul water at the end of the garden. Pipistrelle bats fly in the field, possibly from the Carpenter's Farm group of buildings. Security is needed for the wildlife reserve's rare birds and wildlife.

172. **Mr Stevens** lives at Downham Grove where there are 4 houses and 8 light industrial units. Both he and his neighbour have had permission refused for infill development, including on appeal, because they are in the countryside. Bats are in evidence in early evening. The appeal site is outside the urban area, on farmland and would erode the gap between Hethersett and Wymondham and encourage other development to the south. The B1172 is a dangerous road. There is no cycle path and it is busy with a recently lowered speed limit.

173. Downham Grove is owned by the Barnard family and is not a right of way. It was understood that when the Whispering Oaks development was allowed that trees were to be planted on the north side of Downham Grove. That should happen. If permission is granted here, a 7m grass strip should be retained alongside the track and a hedge planted. Construction work should not overlap but follow on from Whispering Oaks. The route shown for the new foul sewer passes through his neighbours' land.

174. There has been a flood of documents to the inquiry. These should have been dealt with earlier. The current recession has had an impact on housing completions. The RSS figure of 33,000 should be reduced in response to economic circumstances.

175. **Mrs Ford's** family has lived at Downham Grove for 60 years and the drive should remain private. Drivers who have lost their way already turn in her yard, despite putting up signs. If the drive looked like a road this would happen even more. Matthew Homes may have been released from their responsibility to plant on the north side of Downham Grove, but there was still a need for planting so that development did not take place up to its edge and Downham Grove remained a private drive.

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<sup>158</sup> APP7 LN23

## WRITTEN REPRESENTATIONS

176. Eight letters of representation were received following notification of the appeal. The Planning and Transportation Department of NCC set out its requirements for a Travel Plan and S106. The Highways Agency had no objection to the development. Letters from local residents include objections to building on open farmland and the impacts on wildlife, flooding, traffic and local services and facilities. Letters received at the application stage are summarised in the SNC committee reports<sup>159</sup>.

## CONDITIONS AND OBLIGATIONS

177. A list of suggested planning conditions were drafted by the Council and then revised<sup>160</sup>. These were discussed at the inquiry and the appellants proposed various amendments and deletions that particularly related to the nature of the future approval process and the need (or otherwise) for additional information to be submitted. Annex A to this report deals with the proposed conditions in more detail and contains my recommendations for amendments to their wording where required. Annex B is a list of conditions that I recommend should be imposed if permission is granted.

178. There is an engrossed and dated Agreement between the appellants, landowners, South Norfolk District Council and the Norfolk County Council under S106 of the Act<sup>161</sup>. This provides for education, library, community facilities, travel plan and travel plan co-ordinator contributions, the laying out and management of recreational space and affordable housing. The undertaking provides for a minimum of 25% of the units to be affordable (without public subsidy) and if grant is available the potential to secure 30% and 35% affordable housing<sup>162</sup>. Attached to the S106 Agreement is a Draft Affordable Housing Agreement which sets out the Council's requirements in terms of property type and tenure, 'staircasing', cascades and nomination rights.

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<sup>159</sup> CD53 and CD54

<sup>160</sup> SNC5 and SNC6

<sup>161</sup> Inquiry Document 4 is an original engrossed Obligation dated 4 August 2009.

<sup>162</sup> The SOCG refers at #6.7 to a 35%/65% affordable/market housing split. This will only be provided if there is grant available. Without grant it was confirmed at the inquiry that 25% of the units would be affordable.

## CONCLUSIONS

*The figures in [] refer to preceding paragraphs in the report.*

179. From the foregoing submissions and in the light of my inspection of the site and its surroundings, it seems to me that the main considerations in this appeal are:

- i) Compliance with the development plan;
- ii) Housing land supply;
- iii) Compatibility with the advice in PPS3; and
- iv) The impact of development on the spatial vision for the area.

### The Development Plan

180. For the purposes of this appeal the development plan comprises the East of England Plan (RSS) 2008 and the policies of the South Norfolk Local Plan (LP) 2003 that have been saved and remain part of the development plan [16].

181. Wymondham is identified in the LP by policy ENV7 as a main location for development with Development Limits identified around the town and within the Norwich Area where policy HOU2 indicates significant housing allocations for the LP period to 2006 [19, 20, 102]. Affordable housing is sought on developments of over 25 dwellings (policy HOU12), with a minimum of 25% considered to be a realistic and achievable target [20, 21].

182. In terms of housing numbers, the RSS policies are the most recent and of most relevance in this case. RSS policy H1 sets a minimum dwelling requirement of 11,200 in South Norfolk for the 20 year period 2001 to 2021. This figure is to include provision related to Norwich as part of the Norwich Policy Area (NPA) which covers the urban area, the first ring of villages and the market town of Wymondham [18, 105].

183. The NPA is identified as a new growth point and key centre for development and change with 33,000 net additional dwellings to be provided in the NPA in the period 2001-2021 (RSS policy NR1). The policy also seeks a major shift in emphasis across the NPA towards travel by public transport, cycling and walking. This level of growth is to be facilitated by joint or coordinated Local Development Documents prepared by Norwich, South Norfolk and Broadland [17, 18, 49].

184. Other relevant RSS policies are H2 (affordable housing), ENV1 (green infrastructure) and ENV2 (landscape conservation). Targets for affordable housing are to be set on development plan documents with delivery monitored at the regional level against a target of 35%. Green infrastructure, described as networks of protected sites, nature reserves, green spaces, waterways and green linkages, are seen as important by providing for multi-functional uses and particularly in the key centres for development and change, like the NPA. Criteria based policies are to be developed by planning authorities to ensure that all development respects and enhances local landscape character, informed by area-wide strategies and landscape character assessments [19].

185. The appeal site itself lies outside the LP defined Development Limits for Wymondham in the open countryside where saved LP policy ENV8 applies. Policy

ENV1 protects the landscape and the appeal site is shown on the Proposals Map subject to policy ENV2 as an area of open land which maintains a physical separation between settlements within the Norwich Area. The policy does not permit '*inappropriate development*' which would erode the gap or would otherwise undermine the general quality of the openness of the gap [21, 22].

186. It is not disputed that the appeal proposal for large scale housing development within open countryside and within the gap would conflict with the objectives and provisions of LP policies ENV2 and ENV8 [102]. The case made by the appellants was that there were important material considerations, in particular the lack of a 5 year housing land supply, the absence of any harm that would arise from the breach of policy ENV2, the site's sustainable location and suitability for housing and its ability to deliver housing within the next 5 years, that were sufficient in this case to outweigh that conflict [121]. I consider these considerations in more detail below before I return to conclude on whether the conflict with policies ENV2 and ENV8 is outweighed in this case.

187. Amongst the saved LP policies, IMP1 (design), IMP2 (landscaping), IMP7 (infrastructure provision), IMP8 (traffic), IMP9 (residential amenity), ENV14 (habitat protection) and ENV15 (species protection) are relevant. These seek to ensure that the development is of a high quality, a sustainable design, encourages biodiversity, and is supported by necessary infrastructure and that its transport requirements and access needs are accommodated [23]. I address compliance with these policies in my considerations below.

### **Housing land supply**

188. PPS3 requires local planning authorities to ensure that there is a continuous 5 year supply of deliverable sites available for housing [80]. The RSS is recent and up to date. It sets the spatial strategy for the 20 years from 2001 to 2021 [18, 105]. A key objective is to address housing shortages in the region and to do so by delivering significant growth in the key centres like the NPA [18, 19]. The sub-regional policy NR1 makes it clear that it is the requirement for 33,000 dwellings in the NPA between 2001 and 2021 which the 5 year supply is tested against for development control purposes [17, 18, 84, 106].

189. There is not a 5 year supply of deliverable housing sites in the NPA [84, 106, 107]. The appellants' calculation as at 1 April 2008, based on their definition of completions which differs from that of the Council, was of a 4.3 years supply whereas the Council's first AMR for 2007/08, described as the most robust and reliable calculation, showed 4.4 years supply, a shortfall of 1,000 dwellings [84, 86, 107, 109]. The monitoring exercise is currently being undertaken for 2008/09 so the Council were unable to provide a more up to date figure but it accepted that the supply had not improved and that the best evidence to date was that the latest AMR was likely to show a supply of around 4.3 years, increasing the shortfall to at least 1,250 dwellings [87, 88, 108].

190. This is not the same order of shortfall as that identified in the Bromley (Blue Circle) and Burton Latimer decisions [95, 96]. However there is nothing in paragraph 71 of PPS3, which deals with the situation where there is less than 5 year supply of deliverable sites, to suggest that a different approach should be taken depending on whether there is only one year supply, or 4.4 years as here. Although clearly, if there is a conflict with the development plan, the extent of

any shortfall would affect the weight to be given to housing land supply as a material consideration.

191. The requirements for the NPA are spread across the 3 districts so achievement of a continuous 5 year supply is not dependent solely on action by South Norfolk in bringing forward appropriate sites [89, 105, 110]. However I heard nothing to reassure me that the Council was responding pro-actively to the shortfall other than its contribution to the tripartite work by the GNDP in bringing forward the JCS [78, 82-85].
192. Within the Policy Area at times it will be appropriate to look to delivery of the 5 year supply from the other districts as some of their larger housing allocations come on stream, such as Rackheath in Broadland [89, 92]. However the Council itself acknowledged the difficulties of bringing forward large sites in a timely manner. Whilst Norwich has been relied upon as a fluid source of supply having more small sites, current conditions and changes in market demand, with flatted schemes in Norwich being re-planned as town houses, could impact on its potential contribution towards overall housing supply in the NPA [89, 92, 111]. Unless timely allocations are made and/or, as the Council acknowledges, windfall sites released, this approach carries the risk of a continuing shortfall in the short term and, if delivery is delayed, in backloading supply to the latter part of the RSS period [111].
193. Work is progressing on the JCS but even on the Council's own programme the Site Allocations DPD will not be adopted until late 2011 and this could slip [91, 106, 110]. The Council acknowledges that levels of supply are likely to decline for the 5 years from 2009 and whilst I note that it is possible that some of the smaller site allocations might be brought forward in 2013, this assumes their easy and speedy delivery [90].
194. The table produced by the Council indicates that by 2021 completions could fall short by some 13,560 of the RSS requirement for 33,000 dwellings, if no account is taken of sites to be identified through the LDF process [91, 110]. It reveals the high annual rate of completions that will be required if the RSS target is to be met and, given the time that it can take to bring forward larger housing schemes, the need now for a step change in delivery by the authorities in the NPA [111].
195. In conclusion, there is an under-supply of deliverable sites for housing in the NPA. This is a material consideration that weighs in favour of the scheme. Where there is less than 5 years supply, paragraph 71 requires authorities to consider favourably planning applications for housing, having regard to the policies in PPS3, including the considerations in paragraph 69, and all other material considerations.

### **Compatibility with PPS3**

196. Paragraph 69 lists 5 considerations that should generally be taken into account in determining planning applications. These substantially cover the housing policy objective matters that the SOS wished to be informed about [118].
197. The application is in outline with access and parameter plans sought for approval. The Council has accepted that in principle the appeal scheme is capable of satisfying the first bullet point in paragraph 69, achieving high quality housing, subject to the submission of details at the reserved matters stage [33,



- 114]. From the material provided with the application, including the sections in the Design and Access Statement (DAS) on urban form, character areas and frontage treatments, access, circulation and car parking, and confirmation that Level 3 of the Code for Sustainable Homes could be achieved, there is no reason to doubt that a high quality housing scheme, in accord with sound design and planning principles, could be achieved on this site as required by LP policy IMP1 [32-41]. The principles for this are established in the parameter plans with no need for a further Masterplan. [136]
198. Similarly, the scheme would achieve a good mix of housing that would reflect housing needs in the area (2<sup>nd</sup> bullet point paragraph 69) for both market and affordable housing that would meet both demand and need at a rate which is realistic and achievable. The S106 Agreement provides for 25% affordable housing on the site, the Council's minimum target in the LP, in a mix of unit sizes and tenure as required by the Council's Housing Officer taking account of the latest Housing Needs Statement and in accord with LP policy HOU12 [34, 115, 178]. The RSS seeks a higher proportion of affordable housing to be achieved through appropriate targets being set in DPDs taking account of local need assessments. The S106 can provide for up to 35% affordable housing on the site, subject to grant being available [116, 137]. The mix of market housing would include a range of unit sizes and types which would improve choice and, as evident from the take up of those being built at Whispering Oaks and the local agent's advice, are in continuing demand [103, 117].
199. The Council accepts that, other than the conflict with LP policy ENV2 (which I address below) the site is suitable for housing (3<sup>rd</sup> bullet point paragraph 69) [119]. Wymondham is identified as a sustainable location for development in the LP and in the emerging JCS documents [20, 28, 36, 102, 113, 114]. The proximity of the site to community facilities, key services, employment areas and infrastructure is explained in the DAS [37, 102, 146, 147, 154]. There is a rail station in the town accessible by bus and within cycling distance and buses to Norwich pass the site. The Highway Authority and Anglian Water have confirmed that subject to agreed off-site works, the site can be satisfactorily serviced, in accord with LP policy IMP7 [37, 38]. Appropriate contributions are agreed in the S106 Agreement towards education, library and community facilities and recreational space [166, 178].
200. The site is arable farmland [6] and whilst PPS3 seeks the re-use of previously developed land, it is recognised in the 2007/08 AMR that completions on greenfield sites in the district are likely to continue [151]. At a density of 31dph, the development would be just above the national indicative minimum density and would provide adequate open space and landscaping making effective and efficient use of the land (4<sup>th</sup> bullet point paragraph 69) [150]. Evidence was given of the design and technical work already undertaken and the particular nature and operation of the appellant company and the site would contribute towards maintaining a flexible responsive supply of land with delivery of the first houses to follow the completion of Whispering Oaks, with 175 units anticipated to be completed by April 2014 [116, 143, 152].
201. The 5<sup>th</sup> bullet point in paragraph 69 requires decision makers to ensure that *'the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives'*. Other than in respect of its case that the loss of a greenfield site that forms part of a landscape gap

between settlements would undermine the spatial vision for the area (3<sup>rd</sup> and 5<sup>th</sup> bullet points) the Council accepted that the proposal would contribute towards meeting the housing objectives set out in paragraph 10 of PPS3 [33, 136]. The proposal would help meet the demand and need for housing in the area [140, 143]. It would contribute towards the five year housing land supply on a suitable, available and deliverable site that would provide a minimum 25% affordable housing, in an attractive location in market terms and with a proposed housing mix that the evidence indicates would improve choice and meet demand. As such it accords with the planning objectives for housing in the NPA in the RSS.

### **The spatial vision and policy ENV2**

202. So far as the spatial vision for the area is concerned, the site is within the area covered by LP policy ENV2 and outside the Development Limits of Wymondham [44, 45]. However it was accepted for the Council that but for policy ENV2, policy ENV8 was capable of being overridden by the lack of a 5 year housing land supply and shortfall in housing numbers with the only sustainable location for new housing being on the town's urban edge in currently designated countryside [85, 119, 151].
203. The key to the LP Proposals Map describes the ENV2 land as '*strategic gaps*'. Neither the 1993 nor 1999 Structure Plans Key Diagrams extended that level of protection to the open land between Hethersett and Wymondham and it was agreed at the inquiry that the terms '*green wedge*' or '*gap*', found in the policy and text of the Plan, should be applied [54, 57, 122, 123].
204. There was an exhaustive trawl at the inquiry through the two reports of the Deposit Draft Local Plan Inspector and the Modifications Inspector to examine the evolution of policy ENV2, the function of the gap and the identification of its final policy boundary north of Wymondham to include the appeal site but not the Whispering Oaks site [59, 60, 125]. It is noteworthy that neither Land Use Consultants (LUC) in their Landscape Assessment nor the Council had chosen to define the gap precisely in its Modifications, the boundary of which was drawn on the adopted LP Proposals Map on the basis of the Inspector's written description [58, 61].
205. But however the boundary was arrived at, it is the case that the appeal site is currently subject to the additional level of protection from inappropriate development accorded by policy ENV2. There is the clear expectation in the LP, in the supporting text to policy ENV7, that whilst the Development Limits will be reviewed, the policies designed to protect the District's environmental assets (including policy ENV2) would endure beyond the Plan period [24, 57].
206. Having said that, I do not accept that because the issue of the gap was determined at the LP Modifications Inquiry, the ENV2 boundary is now immutable [57, 63, 126, 127]. The 2008 RSS requires the NPA to provide a substantial level of new housing. Its environment policies, particularly policy ENV2, reflect the shift in Government thinking, first set out in PPG7 and now in PPS7, for the inclusion of carefully drafted criteria based policies in LDDs to protect local landscape character, outside the nationally designated areas, rather than rigid local designations [19]. PPS7 at paragraph 25 is very clear as to what is required of local planning authorities and '*when reviewing their local area-wide development plans (they) should rigorously consider the justification for retaining existing local landscape designations*' [126].

207. Thus whilst the draft policy in the JCS consultation refers to growth at Wymondham being achieved '*whilst maintaining the strategic gap to the north and north east*' [62], the GNDP as the plan making body will have to justify the maintenance of that gap with robust and credible evidence; a point made strongly by the Advisory Inspector in her February 2009 note. Both PPS7 and RSS policy ENV2 refer to the need for there to be a robust assessment of the qualities of the local landscape and in the new plan making system, where strategies must be supported by evidence, it will not be enough to rely on the 2001 landscape assessment carried out to inform the LP Modifications which in any event did not establish any boundaries to the gap [58].
208. Moreover any up to date assessment will necessarily have to take account of the changes that have taken place, or will take place, within the gap [71-76, 129]. In particular the new buildings at Elm Farm that are close to and prominent from the B1172 [76] and the Council's resolution to grant permission for the relocation of the Rugby Football Club with a new access in the same location as the appeal proposals [7, 74, 75]. The completion of the Whispering Oaks development with building to the south side of Downham Grove will also have an impact on perceptions of the area's landscape character and views [71].

### ***The impact of the appeal development***

209. The Council in closing was scathing of the appellants' landscape evidence but provided no detailed assessment of its own, preferring to rely on the comments of the LP Inspectors [63]. However it acknowledged that the site is relatively well contained in the landscape [67, 130] and the Council's witness, Mr Trett, concentrated in his oral evidence on the impact of the development on a number of views which I visited on my accompanied site inspection [64-68].
210. The ENV2 notation between Hethersett and Wymondham extends around 2km along the B1172 and from the A11 north towards Wong Farm. In that it is intended to maintain a physical segregation between the settlements and their individual identities, my perception was that this was essentially achieved by the mid section where there is farm land on both sides of the road north of Elm Farm allowing those travelling between the settlements wide views of the surrounding open fields and scattered woodland. From there going south there is a ribbon of development, albeit loose and with gaps, on the western side of Norwich Common which contains and limits views of the countryside beyond [8, 66].
211. I found that the appeal site, as a result of its proximity to the built up area and the visible urban influences, differs in character from the more rural and open countryside to the north and east [6, 8]. The nature of the plateau topography and the extent of the site's physical and visual containment limit appreciation of its contribution to the gap [130]. I did not find it to be an important component of the landscape between Hethersett and Wymondham that enables their physical separation to be maintained. Nor that it was necessary for the site to remain undeveloped to ensure coalescence did not occur [130].
212. From Norwich Common at the access point, there would be a change in character from being part of an undeveloped break in the ribbon of development stretching out along the road, which gives an appreciation of the open farmland behind albeit fleeting to any traveller, to a developed frontage that could include 3 storey elements with views along the new road into the estate [64]. This intensity of built development would be very different from the experience if the

access were to be used solely to serve the RFC's new ground and would serve to emphasise the extension of the edge of the urban area northward. There might also be some perception of development in depth behind the houses fronting Norwich Common adjacent to Skipping Block Row, but given their plot lengths and garden vegetation, I doubt that the impact would be as intrusive as Mr Trett suggested [66]. Downham Grove is already changing with the development of Whispering Oaks but its character would further change with housing on its northern side as well [68, 131].

213. From Footpath 26 (FP26), at present there is a clear perception on leaving the B1172 of travelling into the countryside with the open field behind the hedge on the left and woodland and more farmland ahead. This will change with the RFC proposal with the new access road running alongside and then crossing the footpath and would be further altered with the appeal development [75]. Although there is some planting already along the field edge, anyone using the footpath would feel on the edge of the urban area although the view forward would still be of countryside. North west of the site from FP26, long views are obtained across the fields and boundary tree belts of the substantial buildings around Gateway 11 on the skyline and getting closer to the site, the roofs of the new houses of Whispering Oaks seen behind and above the trees alongside Downham Grove and development on the appeal site would bring the urban edge closer [132]. However in overall terms the change and the visual impact of development would, in my judgement, be limited.

214. I conclude that any impact of development on the site on the visual appearance of the area would be local and limited. I appreciate that visual impact is not the same or equivalent to impact on landscape character [69]. This development, outside the Development Limits of Wymondham and within the ENV2 gap, would have an impact on the character of the landscape [77]. However it is my judgement that impact on that character and on the purpose/function of the gap would be limited and this harm has to be weighed in the balance with the other material considerations that favour development.

*Pressure for the release of other land?*

215. The Council pointed to development on the appeal site moving the urban edge out, the effect of which would be to invite the field by field destruction of the gap between Wymondham and Hethersett [72, 133]. I can understand the Council's concern but I was not told of any particular scheme or site that the Council knew was awaiting the result of this appeal or which displayed similar characteristics. Whilst reference was made to the field immediately to the north, from what I saw my view was that it is rather different to the appeal site in terms of its containment and relation to the built up area. As to the frontage land south of Meadows Cottage, this is laid out as plots of similar size to those developed along Norwich Common and any precedent argued for development in those cases would more likely refer to the adjoining houses, and the change in circumstances with the RFC car park behind, rather than to the appeal site, which is of a very different scale and character [7, 72].

**Other considerations**

216. The appeal scheme would provide for at least 81 affordable housing units of tenure and size sought by the Council with the potential for more if there were public subsidy [15, 140]. However such provision would be likely to be required

of any housing scheme of this size and is part of the case made in terms of housing land supply and meeting housing needs and cannot be given further additional weight as a material consideration in favour of the scheme [97].

217. The proposed development is consistent with PPG13 objectives to reduce the need to travel by private car. It is in a sustainable location with services and facilities within walking and cycling distance and available alternative means of travel by public transport [36-38, 153-168]. The appellants drafted an interim Travel Plan to accompany the application setting action targets for implementation and monitoring which has been agreed with the County Council<sup>[162]</sup>. The S106 Agreement provides contributions towards its implementation and a condition could be imposed on any permission granted to require the submission of a fully worked Travel Plan [164].

218. I am satisfied that the concerns raised by local residents relating to drainage, wildlife protection, noise, access and watercourses [171-176] are all matters capable of being dealt with in a satisfactory and appropriate manner [169]. If permission were to be granted there would be a change in the appearance of Downham Grove and those using it would feel like they were passing through a housing estate [173, 175]. Whilst the intended planting to create an 'avenue' of trees was not pursued as part of the scheme for Whispering Oaks, it would be open to the Council to require similar planting as part of any detailed submission [169].

219. There was evidence at the inquiry from local residents that bats over fly the site [171, 172]. No mature trees on the perimeter that might have potential to support roosting bats are to be felled and Natural England has confirmed that it would be satisfied to see a condition to that effect applied to any permission granted [41].

### **Conditions and Obligations**

220. If the SOS were to be minded to grant outline planning permission for the development, I recommend that the conditions drafted by the Council and discussed at the inquiry should be imposed, subject to the amendments incorporated in the list set out in Annex B to this report [73, 168, 177]. I am satisfied, for the reasons given, that all the conditions in Annex B meet the policy tests set out in Circular 11/95 and are relevant to the development and to planning, and necessary and reasonable to ensure a satisfactory standard of development and to minimise the impact on the environment.

221. There is a completed S106 Agreement [166, 178]. I am satisfied that the content and purpose of the Agreement is robust and that the matters provided for are all necessary to make the development acceptable in planning terms. They are consistent with the guidance in Circular 05/2005 and fairly and reasonably relate in scale and kind to the proposed development.

### **Overall conclusion**

222. The proposal would accord with the policies of the more recent development plan, the 2008 RSS, concerning the location of new housing. It would be in keeping with the general thrust of the emerging JCS for the NPA which sees Wymondham as a location for substantial growth. The proposal would contribute towards improving the 5 year housing land supply in the NPA on a site that is suitable for housing, available and deliverable in the short term. It would accord

with the advice in PPS3 on the matters that should be taken into account when determining applications for new residential development. It would also comply with LP policies HOU12, IMP1, IMP2, IMP7, IMP8, IMP9, ENV14 and ENV15. Other than the site's location within the gap between settlements, there are no other matters that weigh against the appeal proposal.

223. The purpose of the gap, protected by LP policy ENV2, is to maintain a physical separation between Wymondham and Hethersett. The site is physically and visually well contained. Other than the physical loss of one field, there would be no significant material diminution of the sense of separation or coalescence of the settlements. Whilst the favoured option in the consultation on the emerging JCS is to expand Wymondham whilst maintaining the gap to the north and northeast, PPS7 and RSS policy ENV2 require that there should be a formal and robust assessment of such local designations and such an assessment will take place in the context of significant need for housing growth, much of which in South Norfolk will have to be on greenfield land.

224. The Council acknowledges that a balance has to be struck. The NPA housing shortfall is a significant material consideration in the context of the advice in paragraph 71 of PPS3 that planning applications for housing should be considered favourably where there is less than a 5 year supply of deliverable sites. The scheme complies with the housing policy objectives in PPS3 and with most of the considerations in paragraph 69. In considering where the balance lies, I conclude that the perceived breach of the LP environment policies ENV2 and ENV8, which form part of Council's spatial vision for the area, is not sufficiently weighty in this case to override the factors in support of the proposal and the appeal should therefore succeed.

## **RECOMMENDATION**

225. I recommend that the appeal be allowed and outline planning permission granted, subject to the conditions listed in Annex B.

*Mary O'Rourke*

Inspector

### **INQUIRY DOCUMENTS**

- 1 Council's letter of notification of the inquiry and list of those notified
- 2 Statement of Common Ground June 2009
- 3 Draft S106 Agreement
- 4 Signed S106 Agreement

### **COUNCIL'S DOCUMENTS**

- SNC1 Proof of evidence of Simon Marjoram (with amended paragraph 2.2)
- SNC2 Mr Marjoram's appendices:
1. Norwich Policy Area Map
  2. South Norfolk Local Plan policy ENV7
  3. Extract from Policy 5 'Locations for major change and development in the Norwich Policy Area' Joint Core Strategy Regulation 25 Public Consultation March 2009 (page 26)
  4. Text for Wymondham and Hethersett Joint Core Strategy Regulation 25 Public Consultation March 2009 (page 67)
  5. Timetable to Adoption Joint Core Strategy Regulation 25 Public Consultation March 2009 (page 2)
  6. South Norfolk Local Development Scheme timetable (May 2009)
- SNC3 Proof of evidence of Chris Trett
- SNC4 Mr Trett's appendices:
1. Location Plan
  2. Refusal notice
  3. Policies ENV1, ENV2 and ENV8 of the SNLP
  4. SNLP Proposals Map and Inset Map 62A Wymondham
  5. Definition of inappropriate development Glossary SNLP
  6. Policy N2 Norfolk Structure Plan 1993
  7. Draft policies RUR2 and RUR4 SNLP Deposit Version 1997
  8. Extracts from the Local Plan Inspector's report 2000
  9. Extract from South Norfolk Landscape Assessment 2001, Volume 2 Chapter 12
  10. Council's proposed modifications – policy RURA
  11. Extracts from the Modifications Inspector's report 2002
  12. South Norfolk Council's response to the Modifications Inspector's report
- SNC5 Draft Conditions (attached to Mr Trett's proof)
- SNC6 Draft Conditions (Revision 2)
- SNC7 Opening submissions for the Council
- SNC8 Closing submissions for the Council

### **APPELLANTS' DOCUMENTS**

- APP1 Proof of evidence of Mr Chard on landscape and visual matters
- APP2 Illustrative Material to accompany Mr Chard's proof:

- L1a site context plan MDC-1
  - L1b aerial photograph
  - L1c extract from Countryside Agency Landscape Character Assessment Vol. 6 South Norfolk and High Suffolk Claylands
  - L1d South Norfolk Landscape Assessment Vol 1, Vol 2 and Vol 3 (extracts)
  - L1e site appraisal plan MDC-2 (including photo views A to F)
  - L1f site appraisal photos A to F
  - L1g visual appraisal plan MDC-3
  - L1h site context photos 1 to 9
  - L1i landscape strategy plan MDC-4
  - L1j Appendix 1 landscape assessment methodology
  - L1k Appendix 2 viewpoint description, predicted effects and their significance
- 
- APP3 Landscape and Biodiversity Management Strategy
  - APP4 Mr Chard's summary proof
  - APP5 Proof of evidence of Mr Lyell on commercial deliverability
  - APP6 Proof of evidence of Mr Newlyn on the case for development
  - APP7 Documents provided by Mr Newlyn:
    - LN1. NPA housing land availability April 2007
    - LN2. Sample sheet
    - LN3. Update assessment of NPA April 2009
    - LN4. Market report from Brown and Co June 2009
    - LN5. Profile of development on the appeal site
    - LN6. Note of meeting with SNC/NCC 15.5.09 on contributions and NCC response with appendices
    - LN7. Elm Farm delegated planning report, plans and decision
    - LN8. South Norfolk Annual Monitoring Report 2007/08
    - LN9. Bioscan letter 4.6.09 responding to 3<sup>rd</sup> party objections
    - LN10. Anglian Water letter 22.5.09 confirming drainage arrangements
    - LN11. Millard Consulting summary statement on foul water provision
    - LN12. Millard Consulting statement on 3<sup>rd</sup> party objections
    - LN13A. Response Statement of Mr Newlyn of 21 July 2009
    - LN13B. Original response statement of 17 July 2009
    - LN13C. Email from Simon Marjoram of 22 July withdrawing support for the response statement
    - LN14. South Norfolk Annual Monitoring Report 2007/08 (indicating a 4.68 year housing supply and referred to in Mr Marjoram's amended paragraph 2.2)
    - LN15. Broadland District Council Annual Monitoring Report 2007-08
    - LN16. Appellants' April 2009 housing land supply study for the Norwich Policy Area
    - LN17. CLG RSS and LDF Core Output Indicators – Update 2/2008
    - LN18A. Email dated 17.1.07 from Joy Hann of SNDC and definition of completions
    - LN18B. Letter dated 13.5.09 from Simon Marjoram of SNDC and alternative definition of a completion



LN19. Letter dated 12.5.09 from CLG Chief Planner to all Chief Planning Officers about planning for housing and economic recovery

LN20. CLG Land Supply Assessment Checks May 2009-08-04

LN21. Draft Heads of Terms between Circle Anglia and Pelham Holdings Ltd and email dated 23.7.09 from Circle Anglia Ltd's Assistant Director of Development

LN22. Inquiry note from Graham Tuddenham on farm management and woodland planting around the site

LN23. Inquiry note from Bioscan on ecology issues with attached letter dated 19 August 2008 from Natural England

LN24. Inquiry note from Millard Consulting Engineers on foul water disposal with attached drawing 3653/02/05 showing proposed options for requisition study

LN25. Inquiry note from Millard Consulting Engineers on surface water disposal and attached drainage Masterplan drawings 3653/21/09 and 10 and letter dated 20.8.08 confirming the Environment Agency's acceptance of the scheme and recommended conditions and amended condition in the Agency's letter of 28.8.09

LN26. Appellants' statement in response to Mrs Hawes

LN27. Illustration to show in tabular form potential mix of affordable housing by size and tenure

APP8 Enlarged version of Housing Trajectories in LN8

APP9 Amended Environment Agency condition on surface water discharge from the site

APP10 Suggested wording for a travel plan condition

APP11 Plan E1107F2R1 referred to in draft Condition 23 in SNC6

APP12 Appellants' opening statement

APP13 Appellants' closing submissions

## **CORE DOCUMENTS (all prefixed CD)**

### ***National/regional policy documents***

01 PPS1 (not provided)

02 PPS3 (not provided)

02a Circular 05/2005 (not provided)

02b Circular 1/97 (not provided)

03 PPS7 (not provided)

04 PPG13 (not provided)

05 PPS25 (not provided)

06 Appendix 4: Criteria from CLG sent to selected authorities (Land Supply Assessment Checks)

07 CLG advice note – demonstrating a 5 year supply of deliverable sites (2007)

08 By Design 2000 (not provided)

09 Urban Design Compendium 2000 (not provided)

10 Safer Places: the planning system and crime prevention (2004) (not provided)

11 East of England Plan – the revision to the RSS May 2008

11A Extracts from the June 2006 Report of the Panel on the East of

England Plan on the Norwich Sub-Region

***Local policy documents***

- 12 Extracts from South Norfolk Local Plan Inspector's Report 2000
- 13 Extracts from the South Norfolk Local Plan Modifications  
Inspector's Report 2002
- 14 South Norfolk Local Plan adopted March 2003
- 15 Not used
- 16 Greater Norwich Development Partnership Joint Core Strategy  
for Broadland, Norwich and South Norfolk Technical  
Consultation Regulation 25 August 2008
- 17 Greater Norwich Development Partnership Joint Core Strategy  
for Broadland, Norwich and South Norfolk Issues and Options:  
Report of Consultation
- 18 Inspector's notes on Norwich LDF Advisory Visit  
January/February 2009
- 19 Greater Norwich Development Partnership Joint Core Strategy  
for Broadland, Norwich and South Norfolk Public Consultation  
Regulation 25 March 2009
- 20 Greater Norwich Development Partnership Joint Core Strategy  
for Broadland, Norwich and South Norfolk Sustainability  
Appraisal Framework
- 21 South Norfolk Local Development Framework AMR 2006/07
- 22 Not used
- 23 South Norfolk Supplementary Planning Guidance – Affordable  
Housing and Housing Mix October 2003
- 24 Greater Norwich Housing Market Assessment

***Landscape documents***

- 25 Extracts from Countryside Character: Volume 6: East of  
England Countryside Agency 1999
- 26 Not used
- 27 Land Use Consultants South Norfolk Landscape Assessment  
Volume 1 Landscape Types in South Norfolk  
Volume 2 Landscape Character Areas of South Norfolk  
Volume 3 Implications for Policy
- 28 Extracts from Guidelines for Landscape and Visual Impact  
Assessment Second Edition, Spons (first published 2002)

***Application documents***

- 29 Completed application forms
- 30 Certificate B form of ownership
- 31 Biodiversity survey and ecology report
- 32 Transport assessment and travel plan
- 33 Flood risk assessment
- 34 Not used
- 35 Air quality assessment
- 36 Noise assessment
- 37 Landscape appraisal and proposals
- 38 Services/utilities report
- 39 Site investigation and contamination/soils report
- 40 Housing land availability methodology statement
- 41 Housing land availability report

- 42 Affordable housing report
- 43 Archaeology assessment
- 44 Energy report
- 45 Statement of community involvement
- 46 Planning statement
- 47 Design and access statement

***Additional application documents***

- 48 Water vole survey (March 2008)
- 49 Great crested newt survey (March 2008)
- 50 Archaeological geophysical report (April 2008)
- 51 Not used
- 52 Agreed housing land availability report (August 2008)

***Additional documents/correspondence***

- 53 Committee report of 17.9.08
- 54 Committee report of 12.11.08
- 55 Barton Willmore notes of the committee (12.11.08)
- 56 SNC decision 12.11.08
- 57 Matthew Homes Ltd letter of 16.9.08
- 58 Not used
- 59 Anglian Water Services Ltd letter of 22.5.09
- 60 Planning committee report on Whispering Oaks development  
2.7.03
- 61 SNC Report to Cabinet on PPS3 August 2007
- 62 Planning committee report on Wymondham RFC relocation  
29.4.09
- 63 SOS decision dated 28.2.08 and Inspector's Report on appeal  
by Deejak Properties – land at Cranford Road, Burton Latimer  
APP/L2820/A/07/2047741
- 64 SOS decision dated 22.11.07 and Inspector's Report on appeal  
by Asprey Homes Ltd – at former Blue Circle Sports Ground  
and Adjoining Lane, Bromley Common, Bromley  
APP/G5180/A/07/2043219
- 65 Local Development Scheme for South Norfolk June 2007
- 66 Local Development Scheme timetable January 2009
- 67 South Norfolk's Local Housing Delivery Plan 2008-2011
- 68 Not used
- 69 Norfolk CC Infrastructure, Service and Amenity Requirements  
for New Development – planning obligations standards for  
education, library, fire hydrant and social service provision  
April 2009
- 70 Plan of NE Wymondham showing other sites and facilities  
referred to in evidence
- 71 Permission 19.12.08 for change of use to children's full day  
care nursery and new building at St Edmunds, Norwich  
Common and committee report
- 72 Report and minutes of the SNC Cabinet meeting 1.12.08 on the  
LDF Annual Monitoring Report 2007/08
- 73A Simon Marjoram's note dated 28.7.09 of explanation of the  
annual requirement adjusted to take account of previous  
shortfalls in completion and attached table showing actual and  
projected completions to 2020/21.

- 73B Mr Newlyn's response to CD73A dated 29.7.09
- 74 Lighting scheme for the relocated RFC
- 75 Not used
- 76 Norwich Policy Area Key Diagram Inset Norfolk Structure Plan 1999
- 77 Norfolk Structure Plan 1999

## **PLANS**

- A Application drawings 15455/02, 04, 06, 07 and 08 (SOCG #2.11)
- B Drawings Nos 3653/03/03C and 18D showing proposed off site highway works
- C Site location plan 15455/P01, Wymondham location map 15455/P03 and Facilities Plan 15455/P05
- D Figures 1, 2, 3 and 4 for illustrative purposes only (Drawing Nos. 15455/L1A site context plan, L2A site appraisal plan, L3A visual appraisal plan and L4A landscape strategy plan) all at A1
- E South Norfolk Local Plan 2003 Wymondham Inset Map 62A

## **Annex A**

### **Inspector's Comments on the suggested planning conditions (SNC6)**

*Note: I have amended the wording of conditions where appropriate to reflect that of the Model Conditions annexed to Circular 11/95. The numbering below is that in SNC6. But as I have had to make various amendments, including deletions and additions, some of the numbers of the recommended conditions in Annex B have altered.*

Conditions 1-2: I have substituted the three standard conditions for outline permissions and submission of reserved matters. The reserved matters listed reflect the changes made to the outline planning process following the 2004 Act. Landscaping is included as it was agreed at the inquiry that it is to be reserved for future consideration.

Condition 5: Through this condition the Council was seeking the submission of a further Masterplan for the development of the site to cover such matters as erection of dwellings, dwelling mix, affordable housing, principal roads, footways and cycleways, principal foul and surface water drainage systems, structural landscaping, open space and play areas and retail development. This was resisted by the appellants. Whilst the Parameter Plans submitted with the application were for illustration only, I see no benefit for a development of this size in adding another layer of approval before the submission of reserved matters. There was no indication by the Council that the submitted Masterplan is in any way inadequate or unacceptable, and it is clear from the latest consultation responses that there is general agreement on drainage and highway matters, on affordable housing, the general location and quantum of open space and play areas and structural landscaping and there are other conditions covering most of these matters. I agree however that a separate condition is needed to secure the Council's approval for the phasing of the development to ensure that the provision of infrastructure, landscaping, open space and play areas keeps pace with building (and this is condition 6 in Annex B).

Condition 6: I have amended the wording as it duplicated the reserved matters condition 1.

Condition 7: I consider the condition reasonable to prevent the loss of trees and hedges on the site, in the interests of the visual amenities of the site, but have included a time limit of 5 years when development should be complete or nearly complete, as Circular 11/95 paragraph 51 advises the long term protection of trees should be secured by tree preservation orders rather than by condition. The condition as revised by the appellants proposed similar protection for the trees to the north and outside of the appeal site on land on which the appellants have options but which is not in their control. There is advice in the Circular where conditions are proposed which require works to be carried out on land in which the applicants has no interest and which is outside the site (paragraphs 37-41). In this instance the condition does not require anything to be done. Nonetheless, and despite the appellants' assurances as to the landowners' intentions, I am not satisfied that the inclusion of the revised wording would meet the Circular test of enforceability.

Condition 8: I have added the peak flow rates for the 1 in 30 years and 1 in 100 years run off rates as requested by the Environment Agency (LN25).

Condition 10: Although the appellants have agreed a satisfactory surface water drainage strategy with the Environment Agency as set out in LN25 and attached drawings 3653/21/09 and 10, and surface water discharge is covered by conditions 8, 9, 11, 12 and 13, I consider that the agreed scheme still needs to be formally approved by the local planning authority and for its implementation to be secured by condition.

Condition 13: The condition should refer to 'estate' roads. I have deleted reference to the Highway Authority as it is for the local planning authority to approve the detailed plans and to decide who to consult on them.

Condition 14: This condition is unnecessary as its provisions are already covered by the suggested Condition 13.

Condition 15: Whilst the appellants argued that the construction of estates to Binder Course surfacing level would be covered by the new phasing condition, I consider this condition is still necessary to make clear what is required of the developer.

Condition 19: Agreement has been reached by the appellants' engineers and Anglian Water on connection to the sewage treatment works (LN24), however as there are 2 options for the route of the new rising main I consider that a condition requiring a scheme to be agreed is still required and is reasonable and necessary.

Condition 21: The Council's suggested condition is that proposed by the County Council Archaeologist and unlike the Model Condition in PPG16 includes two stages of evaluation and mitigation. Given that the archaeological desk based assessment (CD43) submitted with the application indicated the archaeological potential of the study site for the Roman period as good, I consider that this approach, which I was told is adopted throughout Norfolk, is reasonable. I have amended the wording in places in the interests of clarity.

Travel Plan: As a draft Travel Plan was submitted with the application and the S106 covers contributions towards the implementation of a Travel Plan and a Travel Plan Co-ordinator, I am imposing a condition to require the submission of a Travel Plan before development commences on the site along the lines of APP10, proposed by the appellants. The trigger for Travel Plan contributions in the S106 Agreement is the occupation of the 1<sup>st</sup> and 50<sup>th</sup> dwelling. It seems to me to be reasonable, and would give time to judge the effectiveness of the Interim Travel Plan, for the occupation of the 50<sup>th</sup> dwelling to also be the trigger for the submission of the Full Travel Plan of the local planning authority.

## Annex B

### List of conditions

- 1) Details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: To comply with section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

Reason: To comply with section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: to comply with section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 4) The development shall provide for a maximum of 323 dwelling units and no more than 460 square metres of gross retail floor space falling within Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: To ensure that the highway network is adequate to cater for the development proposed.

- 5) No development shall take place until details, including samples where required, of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To enable the local planning authority to control the colour, tone, texture and appearance of the materials used to ensure the satisfactory appearance of the development, as required by South Norfolk Local Plan policy IMP1.

- 6) Before development commences, a plan shall be submitted to and approved in writing by the local planning authority showing a programme of phasing of development to include the provision of the estate roads, footways and cycleways, fire hydrants, landscaping, open space and play areas and retail development. The phasing plan shall be implemented as approved.

Reason: To ensure that development proceeds in a manner and sequence that provides for essential features at the appropriate time when they are needed.

- 7) The landscaping details required by Condition 1) shall provide for a scheme of tree planting and landscaping, which shall include indications of all existing trees and hedgerows on the land, all of which are to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of

landscaping shall be carried out in accord with the phasing plan agreed in accord with Condition 6). The scheme shall include a programme for landscape maintenance for a minimum period of 5 years and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Reason: To ensure a satisfactory standard of development.

- 8) No trees or hedges on the site shall be cut down, uprooted, destroyed, lopped or topped within a period of 5 years from the commencement of development, without the previous written approval of the local planning authority. Any trees or hedges removed without consent shall be replaced during the next planting season November/March with trees of such size and species as agreed in writing with the local planning authority.

Reason: To ensure that the trees and hedges are retained in the interest of the visual amenities of the area and nature conservation.

- 9) Surface water discharge from the proposed development shall be restricted to a peak flow rate of 16.5l/s in 1 year event, 44.3l/s in the 1 in 30 year event and 65.1l/s in the 1 in 100 year event (inclusive of an allowance for the impacts of climate change).

Reason: To ensure that the development does not result in any increase in the off-site flood risk.

- 10) On-site attenuation and storage shall be provided for surface water runoff generated in all rainfall events from the current 1 in 1 year rainfall event, up to and including the 1 in 100 year rainfall event (incorporating a climate change allowance of 30% on the peak rainfall intensity).

Reason: To ensure that the development does not result in any increase in the off-site or on-site flood risk.

- 11) The attenuation basin shall be located entirely outside the area at risk of flooding in the 1 in 100 year fluvial flood event, incorporating an allowance for the impacts of climate change, as in drawing number 3653/21/10.

Reason: To ensure that the surface water management scheme functions as designed in the design fluvial flood event.

- 12) All built development shall be located outside of the areas at risk of flooding in the 1 in 100 years (including climate change) and the 1 in 1000 fluvial flood events.

Reason: To ensure that the houses are not put at risk from fluvial flooding.

- 13) Before development commences, a scheme for the provision and implementation of surface water drainage which has regard to the requirements of Conditions 9), 10), 11) and 12), shall be submitted to and approved in writing by the local planning authority. The scheme shall be constructed and completed in accordance with the approved scheme prior to the occupancy of any part of the development. The scheme shall include a programme for the monitoring and maintenance of all components of the surface water management scheme and shall be implemented as approved.



Reason: To ensure that the development results in no increase in flood risk.

- 14) No works shall commence on the site until such time as detailed plans of the estate roads, footways, cycleways, foul and surface water drainage have been submitted to and approved in writing by the local planning authority. All construction works shall be carried out in accordance with the approved plans.

Reason: To ensure a satisfactory development of the site and a satisfactory standard of highway design and construction in accord with South Norfolk Local Plan policies IMP1 and IMP8.

- 15) Before any dwelling/building is first occupied the roads, footways and cycleways shall be constructed to Binder Course surfacing level from the dwelling/building to the adjoining County road in accordance with the details that have been submitted to and approved in writing by the local planning authority.

Reason: To ensure a satisfactory development of the site.

- 16) No works shall commence on site until a detailed scheme for the off-site highway improvement works as indicated on Drawings numbered 3653/03/18 Rev D and 3653/03/03 Rev C has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed prior to the first occupation of the development.

Reason: To ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and to protect the environment of the local highway corridor and to ensure that the highway network is adequate to cater for the development proposed in accordance with policy IMP8 of the South Norfolk Local Plan 2003.

- 17) No works shall commence on site until the details of wheel washing facilities for construction vehicles have been submitted to and approved in writing by the local planning authority and the approved facilities have been installed. For the duration of the construction period, all construction traffic involved in the development shall use the approved wheel washing facilities.

Reason: To prevent extraneous material being deposited on the public highway.

- 18) None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason: To ensure that the development can be adequately drained of foul water without increasing the risk of flooding or pollution to the site or local area.

- 19) The development shall incorporate the provision of water hydrants for the purposes of fire fighting at a frequency of one hydrant for every fifty dwellings.

Reason: To ensure that adequate provision is made for fighting fires within the development.

- 20) No development shall take place within the site until the applicant, or their agents or successors in title, has:

- a) caused to be implemented a programme of archaeological evaluation in accordance with a first written scheme which has been submitted to and approved in writing by the local planning authority; and next
- b) submitted the results of the archaeological evaluation to the local planning authority; and next
- c) secured the implementation of a programme of archaeological mitigation work in accordance with a second written scheme which has been submitted to and approved in writing by the local planning authority.

Reason: To ensure that if there are any remains of archaeological significance on the site they can be recorded and mitigation considered.

- 21) The dwellings shall achieve at least Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved and a copy of that certificate has been supplied to the local planning authority.

Reason: To deliver the step change in sustainable building practice for new homes in accord with Planning Policy Statement: Planning and Climate Change Supplement to PPS1.

- 22) Before development commences, fencing shall be erected in the north western corner of the site in accord with details that have submitted to and approved in writing by the local planning authority for the purposes of creating an area of potential habitat as defined in red on Bioscan Drawing No. E1107F2R1.

Reason: In the interests of biodiversity and to create an area of potential habitat.

- 23) Before development commences, an Interim Travel Plan shall have been submitted to and approved in writing by the local planning authority. No part of the development hereby permitted shall be occupied prior to the implementation of the approved Interim Travel Plan. During the first year of occupation of the 50<sup>th</sup> dwelling that is occupied, a Full Travel Plan, based on the approved Interim Travel Plan, shall be submitted to and approved in writing by the local planning authority. The approved Full Travel Plan shall be implemented in accordance with the timetable and targets contained therein, which shall include a process for annual review, and shall continue to be implemented so long as any part of the development is occupied subject to modifications submitted to and approved in writing by the local planning authority as part of the annual review.

Reason: To ensure that the development offers a wide range of travel choices to reduce the impact of travel and transport on the environment.

## **Appendix 3**

### **Norfolk County Council Housing Monitoring Report 2006 Extract (April 2007)**

# Housing Monitoring Report 2006

April 2007



 **Norfolk** County Council  
at your service

## 2 Housing completions

The monitoring guidance set out in 'Local Development Framework Monitoring; a good practice guide', 2005, ODPM, includes a set of core indicators that local authorities are required to address through their annual monitoring reports.

The housing core indicators include a 'housing trajectory' to show:

- 2a (i) Net additional dwellings over the previous five year period or since the start of the relevant development plan document period, whichever is the longer;
- 2a (ii) Net additional dwellings for the current year;
- 2a (iii) Projected net additional dwellings up to the end of the relevant development plan document period or over a ten year period from its adoption, whichever is the longer;
- 2a (iv) The annual net additional dwelling requirement; and
- 2a (v) The annual average number of net additional dwellings needed to meet overall housing requirements, having regard to previous year's performance.

### Net additional dwellings built compared with targets

These are set out as total numbers in **Table 1** and as annualised equivalent figures in **Table 2**. Figures are available for the first five years: a quarter of the RSS period. The first table shows that, at County level, completions from 2001-06 have been around 16,300, some 22.5 per cent of the RSS target to 2021 of 72,600 dwellings, but only 21 per cent of the target of 78,700 recommended by the Panel's Report and accepted in the Government's Proposed Changes.

**Table 1: Dwelling completions compared with proposed targets**

Core indicator	Net dwelling completions			Dwelling targets		
	1993-2006	2001-2006	2005-2006	1993-2011	2001-21 RSS	2001-21 Proposed Changes
	2a(i)	2a(i)	2a(ii)	(18 yrs)	(20 yrs)	(20 yrs)
Breckland	8,560	3,459	590	11,000	15,200	15,200
Broadland	7,993	1,681	139	9,400	12,200	12,200
Great Yarmouth	3,410	1,195	340	4,700	6,000	6,000
King's Lynn & West Norfolk	6,521	2,512	601	11,000	11,000	12,000
North Norfolk	5,645	1,720	446	7,300	6,400	8,000
Norwich	5,901	3,486	875	7,400	10,600	14,100
South Norfolk	5,550	2,279	340	10,200	11,200	11,200
<b>Norfolk</b>	<b>43,580</b>	<b>16,332</b>	<b>3,331</b>	<b>61,000</b>	<b>72,600</b>	<b>78,700</b>
Norwich Policy Area	15,003	6,236	1,149	21,500	29,500	33,000
Broadland part	5,624	1,111	57	7,000	10,500	n/a
South Norfolk part	3,478	1,639	217	7,100	8,400	n/a

1993-2011 target refers to Norfolk Structure Plan; the Report of the Panel recommended deleting targets for district sub-divisions of the Norwich Policy Area.

Data sourced from Regional Housing returns and District Annual Monitoring Report's (AMR) Source: District Councils; Norfolk Structure Plan: RSS, Report of the Panel. Completions from 1993 to 2003 are mid-year, and thereafter are financial year. Breckland figures for 1993-2006 include around 540 completions identified in 2005 but believed to have occurred before 2001.

At District level, completions from 2001-2006 amounted to 33 per cent of the Draft RSS target for Norwich, and 23 per cent for Breckland, but only 14 per cent in Broadland. The Report of the Panel recommended changes in the dwellings target for three Districts, however these have not been accepted in the Government's proposed changes.

In King's Lynn and West Norfolk completions 2001-06 account for 21 per cent of the Panel's target, in North Norfolk 22 per cent and in Norwich 25 per cent.

For the Norwich Policy Area the completions over the same period accounted for 22 per cent of the Draft RSS target to 2011 but only 19.5 per cent of the Panel's recommended target.

**Table 2: Annualised dwelling completions compared to proposed targets**

Core indicator	Net annualised dwelling completions			Annualised dwelling targets		
	1993-2006	2001-2006	2005-2006	1993-2011	2001-21 RSS	2001-21 Proposed Changes
	2a(i)	2a(i)	2a(ii)	2a(iv)	2a(iv)	2a(iv)
Breckland	658	692	590	611	760	760
Broadland	615	336	139	522	610	610
Great Yarmouth	262	239	340	261	300	300
King's Lynn & West Norfolk	502	502	601	611	550	600
North Norfolk	434	344	446	406	320	400
Norwich	454	697	875	411	530	705
South Norfolk	415	456	340	567	560	560
<b>Norfolk</b>	<b>3,340</b>	<b>3,266</b>	<b>3,331</b>	<b>3,389</b>	<b>3,630</b>	<b>3,935</b>
Norwich Policy Area	1,154	1,247	1,149	1,194	1,475	1,650
Broadland part	433	222	57	389	525	n/a
South Norfolk part	268	328	217	394	420	n/a

Sources and notes: as for Table 1

Table 2 expresses the same figures through annualised completions targets. Norfolk completions have averaged a little under 3,300 over the five years, as against the Draft RSS target of just over 3,600 and the Government's target of 3,935. The longer term trend figure of average completions from 1993-2006 was a little higher.

At District level all except North Norfolk and Norwich averaged less from 2001-06 than the RSS target to 2021, the shortfall being the most marked in Broadland, where it was equivalent to only 55 per cent of the target. Norwich was above the target established by the Draft RSS and the Panel's report, thanks in part to the high number of completions achieved in 2005/06. The Norwich Policy Area achieved annual completions below the Draft RSS target, and still further below the Panel's figure. Completions in the Policy Area from 1993 were however only slightly below the average required to meet the Structure Plan target, and were significantly above target for the Broadland part of the Policy Area.