



**Planning Committee**  
**Monday, 3rd April, 2017 at 9.30 am**  
**in the Committee Suite, King's Court, Chapel Street,**  
**King's Lynn**

**Reports marked to follow on the Agenda and/or Supplementary Documents**

- a) Decisions on Applications (Pages 2 - 22)

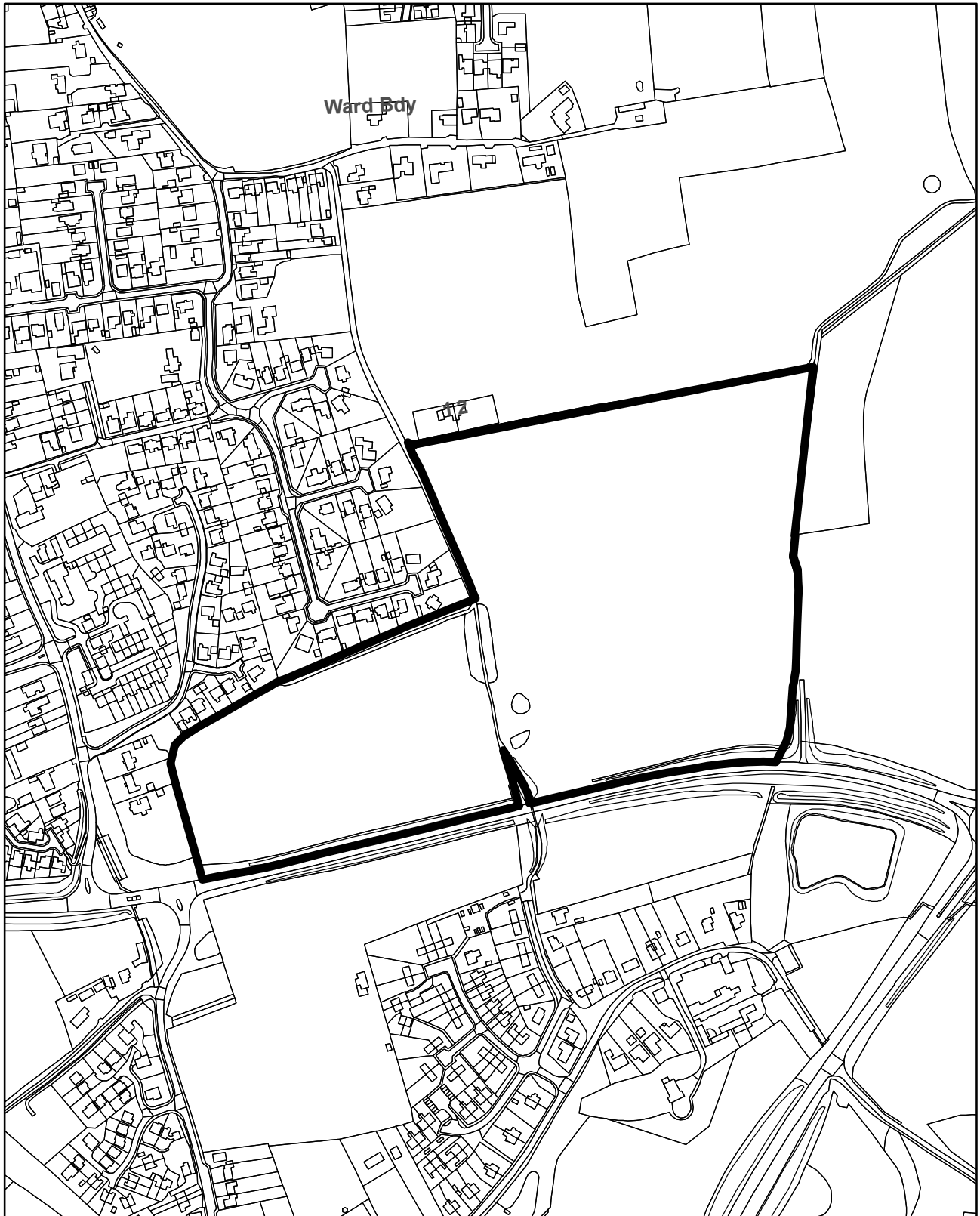
To consider and determine the attached Schedule of Planning Applications submitted by the Executive Director.

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# 16/01322/OM

Land at Nightingale Lane Downham Market



**1:5,000**

## AGENDA ITEM NO: 8/1(a)

<b>Parish:</b>	<b>Downham Market</b>	
<b>Proposal:</b>	<b>Outline Application: up to 300 dwellings and associated infrastructure and access</b>	
<b>Location:</b>	<b>Land At Nightingale Lane Downham Market Norfolk PE38 9FD</b>	
<b>Applicant:</b>	<b>The Grosvenor Partnership 3 LLP</b>	
<b>Case No:</b>	<b>16/01322/OM (Outline Application - Major Development)</b>	
<b>Case Officer:</b>	<b>Mrs H Wood-Handy</b>	<b>Date for Determination:</b> <b>21 October 2016</b> <b>Extension of Time Expiry Date:</b> <b>3 August 2017</b>

**Reason for Referral to Planning Committee** – The views of Downham Market Town Council is contrary to the Officer recommendation.

### Case Summary

The site is located to the south east of Downham Market, bounded by the A1122 on the south boundary, Ravensway and Denver Hill to the north east boundaries, Nightingale Lane and Crow Hall Cottages to the north and open farmland to the east boundary. Nightingale Lane is a Restricted Byway (PROW RB23) and runs from the north boundary south through the site to the footbridge crossing over the A1122 and south towards Denver.

The site is an allocation for Downham Market under Policy F1.4 of the Site Allocations and Development Management Policies Plan 2016, with the policy requiring at least 140 dwellings. Planning permission was granted for up to 170 dwellings (following the completion of the S106 agreement) in October 2016.

The current application is in outline form with all matters reserved apart from access. Originally the application was submitted for up to 500 dwellings including land to the north and outside the allocated site. The applicant was advised that this would be contrary to development plan policy and the application was subsequently revised to reduce the number of dwellings to up to 300 and the red line reduced to conform to Policy F1.4.

### Key Issues

Principle of Development  
Form and character  
Highways issues  
Residential Amenity  
Flood Risk and Sustainable drainage  
Archaeology  
Ecology  
S106 matters  
Any other matters requiring consideration prior to the determination of the application  
Crime and Disorder

## Recommendation

**A. APPROVE** subject to conditions and the satisfactory completion of the S106 Agreement;

**B.** In the event that the S106 Agreement is not completed within 4 months of the date of this Committee meeting, the application shall be **REFUSED** due to the failure to secure affordable housing, public open space and play facilities, SUDS design and maintenance.

## THE APPLICATION

The site is located to the south east of Downham Market, bounded by the A1122 on the south boundary, Ravensway and Denver Hill to the north east boundaries, Nightingale Lane and Crow Hall Cottages to the north and open farmland to the east boundary. Nightingale Lane is a Restricted Byway (PROW RB23) and runs from the north boundary south through the site to the footbridge crossing over the A1122 and south towards Denver.

The site is an allocation for Downham Market under Policy F1.4 of the Site Allocations and Development Management Policies Plan 2016 with the policy requiring at least 140 dwellings. Planning permission was granted for up to 170 dwellings (following the completion of the S106 agreement) in October 2016.

The current application is in outline form with all matters reserved apart from access. Originally the application was submitted for up to 500 dwellings including land to the north and outside the allocated site. The applicant was advised that this would be contrary to development plan policy and the application was subsequently revised to reduce the number of dwellings to up to 300 and the red line reduced to conform to Policy F1.4.

An indicative Master Plan and Framework Plan have been submitted.

The indicative Master Plan demonstrates how the site might be developed and indicates a vehicular access in the form of a priority controlled roundabout from the A1122 to the south east corner of the site. Improved pedestrian/cycle links to London Road, Nightingale Lane (PROW) and Ryston End are also indicated improving north/south and east/west linkages. TPO trees would be incorporated into the development which runs parallel on an east/west axis to the A1122 to the south of the site. Nightingale Lane would split the site into two development areas served by separate main streets travelling east/west and north/south. Landscape and open space buffers are indicated along the A1122 and to the east and north of the site which incorporate SuDS features. The scheme indicates that mainly two storey dwellings would be provided with a mix of semi-detached and detached units. Terraced units are indicated at the centre of the site to the east of Nightingale Lane. Affordable housing would be provided at 20% with a 70/30 social rented/shared ownership split.

An EIA Screening Opinion has previously been undertaken which concludes that the proposal is not EIA development.

The site is CIL liable.

## SUPPORTING CASE

The following supporting documents have been submitted within the application:

- Design & Access Statement Addendum (up to 300 houses)
- Landscape & Visual Statement Addendum (up to 300 houses)

- Transport Assessment
- Geoenvironmental Assessment
- Flood risk Assessment/Surface Water Drainage Strategy
- Air Quality Assessment
- Noise Screening Assessment
- Foul drainage & Utilities Assessment
- Ecological Assessment – Extended Phase 1 Habitat Survey
- Great Crested New Survey
- Tree Survey
- Archaeological Assessment
- S106 Heads of Terms

1. Planning permission is sought for residential development in the Downham Market South East sector. The application is made in outline form with all matters reserved except access. The site is allocated for residential development in the Site Allocations & Development Management Policies (SADMP) Plan adopted on the 29 September 2016 which sets out land allocations and development management policies.

2. Paragraph 14 of the National Planning Policy Framework (2012) provides for decision-taking and this means:  
 ‘approving development proposals that accord with the development plan without delay’  
 The site was also previously consented for 170 dwellings on the 19 October 2016 planning reference 15/00135/OM.

#### Site Description

3. The site is approximately 13.6 ha in size and is located to the north of the A1122 bypass, situated on the south eastern settlement edge of Downham Market. The site borders residential development to the west, agricultural land to the north and east, and is bound by the A1122 to the south.

4. The original application was for 500 dwellings on a 24.37 ha parcel of land, but these proposals represent a revision to the application. The site area has been reduced, with the agreement of planning officers, so that the application now comprises the southern part of the original site and falls entirely within the allocated area.

#### The Proposals

5. The key features of the proposed development are:
- Up to 300 dwellings that can provide a range of housing types primarily directed towards the provision of accommodation for families with areas of open space and associated infrastructure to create a high quality development
  - The significant provision of up to 20% affordable housing (60 units)
  - The creation of an integrated residential community with a sensitive relationship to the existing settlement and countryside setting

#### Planning Considerations

6. At the heart of the Framework is a presumption in favour of sustainable development which theme is continued in the development plan.

7. There are three dimensions to sustainable development as set out in paragraph 7 of the Framework - namely the economic role; social role and environmental role. These roles

must not be considered in isolation and should be taken as mutually dependent and being afforded equal weight.

An economic role - as with any residential development proposal, the construction of 300 dwellings would make a significant and valuable contribution to the economy through the creation of construction jobs and will further support the supply chain associated with this sector, which in turn can help support local employment and skills. The occupiers of the development will contribute to the vitality and viability of local shops and businesses and will generate local spend within the District's economy. The proposals, therefore, deliver on this role.

A social role - the proposed development would provide a high quality environment and help meet the housing needs of the present and future generations with regards to the supply of housing and the provision of affordable homes. The site will provide good quality public open space and have high accessibility to local services and public transport and is considered to be a sustainable location. The proposals, therefore, deliver on this role.

An environmental role - the landscape and visual impact of the proposed development has been carefully considered by Pegasus Group in their Landscape and Visual Statement which supports the planning application. It is considered that there would be very localised effects on landscape character and visual amenity in the immediate vicinity of the site only. No statutorily designated landscape areas would be affected by the proposals. Additional landscaping and public open space are proposed, which would contribute to the local green infrastructure network, increase biodiversity, provide for sustainable drainage, and allow the development to relate well to its residential context and the surrounding countryside. The proposals, therefore, deliver on this role.

8. Overall, the proposed development is considered to achieve sustainable development. This allocated site is located on the edge of Downham Market considered to be a highly sustainable location within walking and cycling distance of the town centre, the station, schools and other key facilities. It has been demonstrated that there are no constraints that would preclude the granting of planning permission subject to conditions and the completion of a S106 Agreement relating to affordable housing and open space provision

## **PLANNING HISTORY**

15/00135/OM: Application Permitted: 19/10/16 - Outline application for up to 170 dwellings, all matters reserved apart from access (S106 agreement)

## **RESPONSE TO CONSULTATION**

### **Parish Council:**

500 Houses – **OBJECT**

Amended Scheme – 300 houses – **OBJECT**

At an Extraordinary Full Council meeting of Downham Market Town Council held last night, Tuesday 07th February 2017, Members recommended refusal commenting 'Within the Borough Council's own Site Allocations and Development Management Policies Plan (Adopted September 2016) in the Strategic Context description of Downham Market (Page 152, paragraph F.1.6) it states 'Downham Market was designated a 'Main Town' in the Core

Strategy. Although the general strategy is to locate the bulk of new development and growth in the Borough's towns over the plan period to 2026, recognition has been given to the large scale housing growth Downham Market has accommodated in recent years. A lower proportion of the Borough's new growth over the next decade or so has therefore been allocated to this town, compared to others, in order to provide a slower pace of growth allowing the town to settle and for services and facilities to adjust to the increased population' and in paragraph F.1.7 'It is envisaged that growth will still continue, but at a slower pace than in recent times'.

In the interests of clarity, the Town continues to face unprecedented numbers of major development applications.

Furthermore, within the same document (Page 160, Policy F1.4 - Downham Market South-East; Land north of southern bypass in vicinity of Nightingale Lane) it states 'Land to the south east of Downham Market of around 13.9ha, as shown on Policies Map, is allocated for a high quality, well designed development at least 140 dwellings and associated facilities'. The Town Council is extremely disappointed to understand of the revision from 'of 140 dwellings' in the same paragraph in the Borough Council Site Allocations and Development Management Policies Pre-Submission Document dated January 2015, to the revised 'at least 140 dwellings' in the superseded aforesaid document, but highlights that on Page 162, Paragraph F.1.33 'There is the potential for further development beyond the allocated site boundaries at some point in the future (subject to future development plans), but the Council (Borough) considers that 140 dwellings are an appropriate allocation during the current plan period'. The Town Council would wish to remind the Borough Council Planning Committee that in respect of this site; planning application 15/00135/OM - Outline application for up to 170 dwellings - All Matters Reserved apart from Access - was approved at the Planning Committee Meeting held on 04th July 2016. Therefore this allocated site has already been over-subscribed by up to 30 dwellings under the Borough Council's own rationale; without any implication for this application.

Of significant concern to the Town Council is the proposed density. In relation to planning application 15/00135/OM, in its supporting Design & Access Statement - Chapter 6.0 Conclusion (Page 59) - it states "Development is at a density of 26dph based on net development density, which is representative of housing in adjacent developments". By increasing the dwellings from the allocated 140 to the permitted 170 the development density has increased from 26 to 33 dwellings per hectare. Should this amended application to 300 dwellings be successful, this will give a dph of 46. Of considerable persuasive weight is that 45 dph is defined as High Density Inner City development. Therefore the proposal is totally at odds with adjacent and similar developments.

To accommodate the additional 130 dwellings the previously allocated green open space will be substantially reduced from 7.08 hectares to 4.69 hectares, a loss of 2.4 hectares of allocated green open space.

Originally, planning application 16/01322/OM supported a residential development of up to 500 dwellings on a 24.37 hectare site. This parcel incorporated the land on which the 170 dwellings has permission (15/00135/OM) and a second adjacent northern parcel of land which is currently outside the Site F1.4 boundary. In conclusion therefore, although the amended application is a welcome reduction from 500 to 300 dwellings it must be borne in mind this is for a site reduced from 24.37 hectares back to 13.6 hectares which already has planning consent for 170 dwellings. This leaves a potential second site of 10.77 hectares for future further development. Should consent be granted for 300 dwellings on the original 13.6 hectare site this will be an increase of 130 dwellings to the original consent and a mass overdevelopment of the site by more than double as set out in the original 2015 Design and

Access Statement; which was the relevant document considered when planning consent was granted.

Based on previous data supplied by the Local Planning Authority, it should be noted that the Town's infrastructure will be unable to support the size of this development.

Additionally the Town Council has serious concerns around vehicular access to and from the development, noting in application 15/00135/OM, that the application had to be mitigated by provision of a roundabout for the proposed 170 homes let alone the 300 dwellings contained in this development. Should future development proceed the Town Council would wish to see an opportunity for an improved gateway for London Road and Denver village incorporated, and, more specifically some tangible community asset, that may lessen the impact of an increased population upon the town's resources, considering that the original proposal for 500 houses included some such facilities within the development i.e. nursery, child centre, supermarket etc. and this amended design offers nothing.

For all of these reasons, Downham Market Town Council recommends Refusal.

**Highways Authority: NO OBJECTION** (to 500 or 300 dwellings) subject to conditions regarding the four arm roundabout on A1122, road details, construction traffic management plan and traffic route, wheel washing, off-site improvement works (roundabout, footway & cycle route to London Road, pedestrian infrastructure improvements, Ryston End Shared use strategy).

**NCC – Rights of Way Officer:** Considers comments from application apply (15/00135/OM). Consideration will need to be given to where roads cross the Restricted Byway (Nightingale Lane). Also consideration should be given to formalising and upgrading an unregistered route to the north of the site serving Crow Hall Cottages and beyond to the east and ultimately connecting with RB17 Downham Market to the north east of the site.

**NCC Minerals & Waste: NO OBJECTION**

**NCC – Planning Obligations:** Education, library and fire hydrant contributions are required. Contribution towards creation of new bridle way Downham Market RB 17 (£10,000)

**NCC – LLFA:** Initial objection however following receipt of additional information, **NO OBJECTION** subject to condition (condition will be reported as Late Correspondence).

**Historic Environment Service: NO OBJECTION** subject to conditions regarding archaeological investigation and mitigation.

**Environment Agency: NO OBJECTION**

**Internal Drainage Board:** Outside the Boundaries of the Drainage Board but within the catchment. Based on current master plan, drainage strategy may not be adequate. However, accepts that the proposed drainage design/layout can be conditioned.

**Anglian Water: NO OBJECTION** subject to the submission of a foul water strategy.

**Housing Strategy Officer:** 20% Affordable housing required in accordance with Policy CS09

500 houses = 100 affordable units split 70% social rent, 30% shared ownership.



Amended scheme – 300 houses = 60 affordable units split 70% social rent, 30% shared ownership.

**Central Services – CSNN: NO OBJECTION** subject to conditions regarding foul and surface water drainage, lighting, noise protection, construction management scheme.

**Environmental Health & Housing – Environmental Quality: NO OBJECTION** subject to and Construction Environmental Management Plan.

**Environment & Planning – Planning Policy: 500** – not consistent with the Local Plan.

#### **Public Open Space:**

- In line with Council Policies DM16/CS14, there will be a requirement for 56m<sup>2</sup> open space per dwelling – approx. 70% for amenity/outdoor sport (of which 50% shall be dedicated to pitch sports) and the remaining 30% as suitably equipped children’s play space. (At 300 dwellings, this equates to 16800m<sup>2</sup> open space).
- As far as possible, open space should be grouped (creating a large park) – central to the development and well overlooked.
- Ponds/SUDs will not be counted towards open space provision, or adopted by the Borough Council.
- Open space is to be provided for public use (i.e. not just for use by residents).
- Robust arrangements need to be in place to secure permanent maintenance of all on site landscaping, trees, hedging etc. Landscaping outside of private gardens but conveyed to individual householders tends not to be maintained.
- An open space specification, including detailed information on landscaping, play equipment, landscaping, paths and access arrangements will need to be submitted and approved prior to commencement of development.

**National Grid: NO OBJECTION** – apparatus in the locality that may be affected.

**Norfolk Constabulary:** Provides Secure by Design Advice.

## **REPRESENTATIONS**

500 houses – **44** objections including 15 duplicate letters regarding:

- Lack of infrastructure and funding in Downham Market;
- Detrimental to nature walk along Nightingale Lane and wildlife in general;
- Noise and disruption to neighbours;
- Access not suitable for 500 dwellings;
- Junction to Denver needs to be considered;
- Already granted 170 and increase in numbers and density is detrimental to form and character;
- Contrary to Development Plan Policy for Downham Market.
- Loss of privacy and amenity;
- Increase in population without infrastructure to support development;
- Use of Ryston End as an overflow is unacceptable and not fit for purpose and detrimental to character;
- Large houses are not what is needed, small houses are required;
- Quality of life for residents will be affected;
- Inadequate parking indicated – leads to on-street parking and blocking of footways;
- Do not need additional shops, needs Doctors and Dentists and school places;

- Detrimental to the character and appearance of the countryside;
- Sewers are inadequate in the locality;
- Have a 5 year supply, more development not necessary;
- Lack of jobs in area and poor pay;
- Train infrastructure oversubscribed;
- Financial gain for developers;
- Site subject to flooding;
- Proposed dwelling types are not in character

Cllr Colin Sampson: The proposed development includes land earmarked for cemetery use. Requests that any S106 agreement includes land set aside for the cemetery.

Amended scheme – 300 dwellings

**31** letters objection including 27 duplicates objecting on the same grounds as above with the following additional comments:

- Acknowledges “at least” element of the policy however the scale of this development needs to be seen in context with other large scale developments planned for Downham Market and associated issues.

## **NATIONAL GUIDANCE**

National Planning Policy Framework – sets out the Government’s planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

## **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS02** - The Settlement Hierarchy

**CS04** - Downham Market

**CS06** - Development in Rural Areas

**CS08** - Sustainable Development

**CS09** - Housing Distribution

**CS11** - Transport

**CS12** - Environmental Assets

**CS14** - Infrastructure Provision

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

**DM1** – Presumption in Favour of Sustainable Development

**DM2** – Development Boundaries

**DM12** - Strategic Road Network

**DM15** – Environment, Design and Amenity

**DM16** – Provision of Recreational Open Space for Residential Developments

## **OTHER GUIDANCE**

Downham Market Town Design Statement

## **PLANNING CONSIDERATIONS**

The main issues are:

- Principle of Development
- Form and character
- Highways issues
- Residential Amenity
- Flood Risk and Sustainable drainage
- Archaeology
- Ecology
- S106 matters
- Any other matters requiring consideration prior to the determination of the application
- Crime and Disorder

### **Principle of development**

Downham Market is a main Town of the Borough as identified by Policy CS02 of the Core Strategy 2011. The site is allocated for housing under Policy F1.4 of the Site Allocations and Development Management Policies Plan 2016. The land is not previously developed land and is therefore a greenfield site.

Policy F1.4 of the Site Allocations and Development Management Policies Plan 2016 requires “a high quality , well designed development of “at least” 140 dwellings and associated facilities” which would include local highway improvements, landscaping, protection of TPO trees, affordable housing, allotments and path improvements, improved infrastructure, education and strategic infrastructure contributions, outdoor amenity and play space, protection of public rights of way and SuDS.

Members resolved to approve planning permission for 170 dwellings on the site on 4th July 2016 with the decision notice being issued following the completion of the S106 Agreement in October 2016. The Applicant subsequently submitted an application for 500 including the allocated land and land to the north in their ownership. Following the adoption of the Site Allocations and Development Management Policies Plan 2016, the Applicant was advised that the proposed development would be contrary to Development Plan policy and would therefore be refused. The Applicant subsequently reduced the red line to accord with Policy F1.4 and reduced the proposed number of units to “up to 300”.

The current proposal is for up to 300 dwellings, 160 more than proposed via the allocation. However, advice from the Inspector during the recent Local Plan Hearings is that any

allocation should specify a minimum number of houses and “at least” has subsequently been added to allocations within the Plan. In order to maintain the countryside buffer and take account of the various constraints, densities would rise to 46.5dph compared to the approved 26dph in 2016. Given that the site amounts to 13.66ha with greenspace 4.69ha and the plan submitted is indicative only, it is considered that up to 300 dwellings could be achieved with varying dwelling types. However, this would ultimately be determined at Reserved Matters stage.

In terms of other factors of the policy, the proposal generally conforms to Policy F1.4. In line with 15/00135/OM and Members wishes to see allotments provided on site, it is considered that 3 allotments (1 plot per 200 people) would be required and conditioned accordingly.

### **Form and character**

The west part of the site is bounded by residential development to London Road, Ravensway and Denver Hill and the north and east part of the site is bounded by Crow Hall Cottages and farmland. The southern boundary abuts the A1122. A strong TPO tree belt lines Nightingale Lane running north-south through the site and a further tree belt, also a TPO designation, runs parallel to the A1122 in the southern part of the site. There are two natural ponds adjacent to Nightingale Lane. In terms of the site in the surrounding landscaping, there are views from the A10 toward the site (looking from the east), and existing vegetation along the A1122 boundary with the western section of the site being higher than the road.

The illustrative masterplan and development framework plan indicate that as much of the natural screening including the TPO trees will be retained as possible. Dwellings would be set against the existing backdrop of Ravensway and Denver Hill. Large landscaped areas are indicated to be provided for much of the east boundary (albeit reduced as a result of the increase in proposed dwellings) and south boundary surrounding the proposed roundabout onto the A1122. A significant buffer would also be provided to the south west corner of the site to take account of Great Crested Newts. Footpath linkages are indicated to the south west corner of the site onto London Road, linking into the existing footpath network of Nightingale Lane and also to the north-west corner of the site.

From a form and character perspective, given the existing setting, it is not considered that the development would adversely affect the visual amenity of the locality in accordance with Policy CS08 of the Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016. However, the detailed design stage will demonstrate whether up to 300 dwellings is achievable given the constraints of the site and policy requirements.

### **Highways Issues**

The illustrative master plan indicates that site would be served by a proposed 4 arm roundabout within the south east quadrant of the site off the A1122. The main residential street would kink round to serve the west and also the north. Secondary streets would be located off the main street with green lanes/private drives serving the outer edges of the built development to maintain the rural edge. The main street would cross Nightingale Lane (an existing Rural Byway).

The Local Highway Authority raise no objection to the provision of a new four arm roundabout to the A1122. The four arm roundabout is provided to facilitate a loop within the development. Proposed footpath links are indicated in the south west corner of the site leading to London Road with offsite footpath/cycleway improvements. Further improvements are proposed offsite to the north to Nightingale Lane in the form of a shared use

footway/cycleway alongside the bridleway and also the creation of a new bridleway linking Nightingale Lane to Rouses Lane. A shared use strategy for Ryston End is also proposed with a 20mph speed limit, kerb realignment and radii decreased at the junction with London Road, shared surfacing and the provision of a 1.2m footpath. Linkages would also be proposed to the north east of the site to link into an existing footpath network. All highway works would be carried out either within the adopted highway or within land controlled by the Applicant.

The Local Highway Authority raises no objection to the amended access details subject to conditions. The Public Rights of Way Officer raises no objection to the scheme. Contrary to Third Party assertion, no vehicular access from the site is proposed to Nightingale Lane or Ryston End.

### **Residential amenity**

Appearance, layout, scale and landscaping would be considered at the Reserved Matters stage. Notwithstanding this, careful consideration would need to be given to privacy and separation distances between existing and proposed dwellings given the range of different heights of dwellings surrounding the site. This may ultimately affect the type of dwelling proposed in particular circumstances. However, given that there are no flood risk restrictions on the type of dwelling, the applicant can develop a range of design solutions to protect the residential amenities of surrounding residents. The proposal would accord with Policy CS08 of the Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016.

### **Flood Risk and Drainage**

The applicant has provided a Flood Risk Assessment and Drainage and Utilities Statement as part of the application.

With regard to flood risk, the site is located in Flood Zone 1 of the KLWN Strategic Flood Risk Assessment 2009. The site is therefore in an area with the lowest probability of flooding. The NPPF and NPPG direct that development should be steered towards Flood Zone 1 and thus the site is compliant with national policy.

The applicant proposes a surface water drainage strategy that incorporates Sustainable Drainage Strategies which is in accordance with the national expectation that LPAs give priority to the use of SuDS in determining planning applications (para 103 of the NPPF).

The LLFA initially objected to the scheme however further to the submission of revised information from WSK (Applicant's flood risk engineers) to ensure that all attenuation features will be located outside surface water flood risk areas (as per the Environment Agency's Risk of Flooding from Surface Water (RoFSW) maps – a low risk area), the LLFA consider that a surface water drainage scheme can be conditioned.

Based on current information this may require some flexibility with the green space highlighted in the indicative layout. Given that the master plan is illustrative only, this is considered acceptable. The LLFA will be forwarding conditions and will be reported as Late Correspondence.

However, at this stage, the site layout is not being agreed and the finalised drainage strategy would need to be agreed via the Reserved Matters application and associated management/maintenance plans would be secured via S106. The proposal would accord with the NPPF and the provisions of Policy CS08 of the Core Strategy 2011.

## Archaeology

Archaeology was addressed via the previous application with trial trenching being undertaken prior to the decision on 15/00135/OM. The Historic Environment Services raises no objection subject to conditions regarding archaeological investigation and mitigation in accordance with the NPPF and Policy CS12 of the Core Strategy 2011.

## Ecology

Members will recall that a Phase 1 Ecology Survey and Great Crested Newt Survey were submitted with the previous application. It was established that further survey work was required for bats. Also it was established that Great Crested Newts were located in a pond directly adjacent to the site and were the subject of further survey work. Mitigation is proposed to increase the area of suitable habitat on the application site by creating a 50m buffer of ideal habitat between the edge of the development and Pond 7 as well as undertake precautionary working practices. The full details of such mitigation measures can be secured via condition. It is clear from the illustrative plan that the GCN constraints are being taken into account with the area of open space shown to the west of the site.

Natural England (NE) has not responded to the consultation this time however during 15/00135/OM, it was considered that there would be no impact on the Ouse Washes SAC, SPA or Ramsar Sites. However, NE advised that its standing advice should be used to assess the impact on protected species.

The European Habitats Directive (the Directive) prohibits activities such as the deliberate capturing, killing or disturbance of protected species, subject to derogation in specific and limited circumstances. These requirements are enforced in England and Wales by the Conservation of Habitats and Species Amendment Regulations 2012 (the Regulations) and any derogation is regulated and overseen by a system of licensing administered by Natural England (NE).

In exercising its functions, including determining planning applications, a Local Planning Authority (LPA) is required to have regard to the requirements of the Habitats Directive in so far as they may be affected by the exercise of those functions. It is not the role or responsibility of the LPA to monitor or enforce NE's obligations under the Regulations. However, if a development proposal could potentially result in a breach of the Directive, the LPA is required to form a view on the likelihood of a licence being granted under the Regulations by NE in order to fulfil its own obligation to have regard to the Directive requirements.

NE will only grant a licence if satisfied that the three statutory tests prescribed under the Directive and the Regulations have all been met.

The tests are:

1. There are imperative reasons of overriding public interest (IROPI);
2. There are no satisfactory alternatives; and
3. It would not be detrimental to the maintenance of the population of the species at favourable conservation status.

The obligation on the LPA is to consider the likelihood of a licence being granted by NE, not to determine definitively whether or not the licence will, in fact, be granted. It therefore has to review the three tests, in the context of a planning application, to then form a view on the likelihood of NE granting a derogation licence under the Regulations.

In this case, a Phase 1 habitat survey concluded that the potential for impacts to bats whose presence/absence cannot be confirmed without further surveys but only with the removal of the trees. Further that the GCN survey confirmed the presence of GCN and thus mitigation measures were proposed.

The LPA can therefore conclude that there is the possibility of protected species present on the site and that if development were to proceed there is the possibility of a breach of the Directive.

LPA consideration of the tests:

1. IROPI - NE's guidance advises that IROPI can potentially include developments that are required to meet or provide a contribution to meeting a specific need such as complying with planning policies and guidance at a national, regional and local level. In this case, the site is allocated for development by Policy F1.4 of the Site Allocations and Development Management Policies Plan 2016 and thus contributes to the Council's deliverable supply of housing.
2. No satisfactory alternatives – this is an allocated site of the Site Allocations and Development Management Policies Plan 2016.
3. Population maintenance - it appears to be unlikely that development of this land, subject to mitigation measures specified will affect the conservation status of the protected species.

The LPA can therefore reasonably form the view, from the information submitted to it for this planning application, that NE would not be unlikely to grant a derogation licence under the Regulations in relation to this development.

### **S106 matters**

Heads of Terms have been provided by the Applicant confirming that the development would meet the requirements for the costs of relevant infrastructure, facilities and resources reasonably related to and directly arising from development. Given the adoption of CIL in February 2017, the site is now CIL liable. However, affordable housing, SuDS design and maintenance and open space/play equipment design and maintenance will need to be secured via S106 agreement.

The site amounts to 13.6ha and thus exceeds the affordable housing threshold set down in Policy CS09 of the Core Strategy 2011. The applicant seeks consent for up to 300 dwellings which means that 60 dwellings would need to be provided split 70/30 between affordable rent (42 units) and shared ownership (18) dwellings. The Applicant has agreed to provide affordable housing and will be covered within the S106 agreement.

With regard to open space, 1.68ha of open space would be required across the development split between 70% amenity space and 30% equipped play areas in accordance with Policy F1.4 (pro rata) and Policy DM16 of the Site Allocations and Development Management Policies Plan 2016. The developer has provided a master plan which indicates that of the 4.69ha of green infrastructure proposed with an additional 0.9ha devoted to SuDS. The exact details of the open space provision would be secured by the S106 Agreement along with maintenance arrangements.

The detailed design of SuDS would be required to be submitted at Reserved Matters stage with the management and maintenance of SuDS features to be secured via the S106 Agreement in the form of a SuDS Management Plan.

Education, library and also the request for a contribution to the creation of a section of Rural Byway (with a new bridleway) between RB17 and RB23 would be addressed through CIL.

Norfolk fire Service require 1 hydrant (on a minimum 90mm main) per 50 dwellings and therefore 6 hydrants can be secured via condition.

All contributions are considered reasonable, necessary and directly related to the development and thus are in accordance with CIL Regulation 122 and Policy CS14 of the Core Strategy 2011.

### **Any other matters requiring consideration prior to the determination of the application**

Environmental Quality raises no objection on contaminated land or air quality grounds subject to a construction management plan.

CSNN raise no objection subject to conditions regarding foul and surface water drainage, lighting, dust suppression and construction management plan.

Anglian Water raises no objection subject to a condition regarding foul water drainage.

The comments of Third Parties and the Town Council have been addressed in the main body of the report.

### **Crime and Disorder**

At this stage, no issues are raised. Norfolk Constabulary has provided Secure By Design Advice that can be incorporated into the final layout.

## **CONCLUSION**

The site lies adjacent to Downham Market, a main town of the Borough as identified by Policy CS02 of the Core Strategy 2011. The direction of growth for Downham Market is identified as being to the north east and south east of the town. This site is allocated for development under Policy F1.4 of the Site Allocations and Development Management Policies Plan 2016. Whilst the proposed development is for 130 more dwellings than previously approved, it is clear that allocation numbers are minimum numbers and it is considered that the site can accommodate up to 300 dwellings without material harm to the visual amenity of the locality, highway safety or neighbour amenity. Actual numbers that can be achieved will be determined at reserved matters stage taking into account relevant constraints and policy. All other matters can be adequately conditioned or secured via the S106 Agreement. For these reasons, the proposal is considered acceptable in accordance with the NPPF, NPPG, Policies CS01, CS02, CS04, CS06, CS08, CS09, CS11, CS12 and CS14 of the Core Strategy 2011 and Policies DM1, DM2, DM12, DM15 and DM16 of the Site Allocations and Development Management Policies Plan 2016.

## **RECOMMENDATION:**

**A. APPROVE** subject to the imposition of the following conditions and the satisfactory completion of the S106 Agreement:

- 1 Condition Approval of the details of the layout, scale, appearance and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority before any development is commenced.



- 1 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 Condition Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted to the Local Planning Authority in writing and shall be carried out as approved.
- 2 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 Condition Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 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 Condition The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the latest such matter to be approved.
- 4 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.
- 5 Condition The development shall comprise of no more than 300 residential units.
- 5 Reason To define the terms of the consent.
- 6 Condition The development hereby permitted shall be carried out in accordance with the following approved plans:  
  
Dwg. YOR.2742\_003A– Red line Site boundary  
Dwg. 70005080/SK/001 A
- 6 Reason For the avoidance of doubt and in the interests of proper planning.
- 7 Condition The details submitted in accordance with Condition 1 shall include full details (in the form of scaled plans and / or written specifications) to illustrate the following: -
  - i) Roads, footways, cycleways, foul and on-site water drainage;
  - ii) Visibility splays;
  - iii) Access arrangements;
  - iv) Parking provision in accordance with adopted standard;
  - v) Turning areas;
  - vi) Driveway length;
  - vii) Garage size.
- 7 Reason For the avoidance of doubt and to ensure a properly planned development in accordance with the NPPF.
- 8 Condition No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. (The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under

Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established).

- 8 Reason To ensure satisfactory development of the site and to ensure estate roads are managed and maintained thereafter to a suitable and safe standard.
- 9 Condition Development shall not commence until a scheme detailing provision for on site parking for construction workers for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period.
- 9 Reason To ensure adequate off street parking during construction in the interests of highway safety.

This also needs to be a pre-commencement condition as it deals with safeguards associated with the construction period of the development.

- 10 Condition Prior to the commencement of any works a Construction Traffic Management Plan and Access Route which shall incorporate adequate provision for addressing any abnormal wear and tear to the highway shall be submitted to and approved in writing with the Local Planning Authority together with proposals to control and manage construction traffic using the 'Construction Traffic Access Route' and to ensure no other local roads are used by construction traffic.
- 10 Reason In the interests of maintaining highway efficiency and safety. This also needs to be a pre-commencement condition as it deals with safeguards associated with the construction period of the development.
- 11 Condition For the duration of the construction period all traffic associated with the construction of the development will comply with the Construction Traffic Management Plan and use only the Construction Traffic Access Route and no other local roads unless approved in writing with the Local Planning Authority.
- 11 Reason In the interests of maintaining highway efficiency and safety.
- 12 Condition No works shall commence on site until the details of Wheel Cleaning facilities for construction vehicles have been submitted to and approved in writing by the Local Planning Authority.
- 12 Reason To prevent extraneous material being deposited on the highway.  
  
This needs to be a pre-commencement condition given the facilities are associated with the construction process.
- 13 Condition For the duration of the construction period all traffic associated with the construction of the development permitted will use the approved wheel cleaning facilities provided referred to in Condition 14.
- 13 Reason To prevent extraneous material being deposited on the highway.
- 14 Condition Notwithstanding the details indicated on the submitted drawings no works shall commence on site unless otherwise agreed in writing until a detailed scheme for off-site highway improvement works (access roundabout to A1122) as indicated on Drawing number 70005080/SK/001 Rev A has been submitted to and approved in writing by the Local Planning Authority.

- 14 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.

This also needs to be a pre-commencement condition as these fundamental details need to be properly designed at the front end of the process.

- 15 Condition Prior to the commencement of any further on-site works, the access roundabout referred to in Condition 14 shall be completed to the written satisfaction of the Local Planning Authority.

- 15 Reason To ensure that the highway network is adequate to cater for the development proposed in the interests of highway safety in accordance with the NPPF and Policy CS11 of the Core Strategy 2011.

- 16 Condition Notwithstanding the details indicated on the submitted drawings no works above floor slab level shall commence on site unless otherwise agreed in writing until a detailed scheme for the off-site highway improvement works as listed below:

- 1) Improvements to footway in London Road (Dwg 5080-SK-004 Rev D);
- 2) Pedestrian Infrastructure Improvements (Dwg 5080-SK-005 Rev C);
- 3) Shared Use Strategy (Dwg 5080-SK-006 Rev E).

have been submitted to and approved in writing by the Local Planning Authority.

- 16 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.

- 17 Condition Prior to the first occupation of the development hereby permitted the off-site highway improvement works referred to in Condition 17 shall be completed to the written satisfaction of the Local Planning Authority.

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

- 18 Condition The development shall not be brought into use until a scheme for the provision of 6 fire hydrants (on a minimum 90mm main) has been implemented in accordance with a scheme that has previously been submitted to and approved in writing by the Local Planning Authority.

- 18 Reason In order to ensure that water supplies are available in the event of an emergency in accordance with the NPPF.

- 19 Condition No development shall commence until full details of the foul and surface water drainage arrangements for the site have been submitted to and approved in writing by the Local Planning Authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is brought into use.

- 19 Reason To ensure that there is a satisfactory means of drainage in accordance with the NPPF.

This needs to be a pre-commencement condition as drainage is a fundamental issue that needs to be planned for and agreed at the start of the development.

- 20 Condition Prior to the commencement of development, a detailed construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposed timescales and hours of construction and shall also specify the sound power levels of the equipment, their location and proposed mitigation methods to protect residents from noise and dust. The scheme shall be implemented in accordance with the details agreed.
- 20 Reason To ensure that the amenities of future occupants are safeguarded in accordance with the NPPF. This needs to be a pre-commencement given the need to ensure that potential noise and disturbance to neighbours is fully dealt with at the outset of development
- 21 Condition Prior to the commencement of any development, a scheme for the provision and implementation of pollution control for the water environment, during both the construction phase and the post-construction phase, which shall include foul/trade effluent and surface water drainage, shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall be constructed in accordance with the approved plans.
- 21 Reason To ensure a satisfactory method of foul and surface water drainage and to mitigate the increased risk of pollution to the water environment in accordance with the NPPF.
- 22 Condition Prior to the first occupation of the development hereby approved, details of the method of lighting and extent of illumination to the access roads, footpaths, parking, and circulation areas shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be implemented as approved prior to the occupation of the development or any phase of the development to which it relates and thereafter maintained and retained as agreed.
- 22 Reason In the interests of minimising light pollution and to safeguard the amenities of the locality in accordance with the NPPF.
- 23 Condition No development shall take place until a Written Scheme of Investigation for a programme of archaeological works has been submitted to and approved by the local planning authority in writing. The scheme shall include:
1. An assessment of the significance of heritage assets present
  2. The programme and methodology of site investigation and recording
  3. The programme for post investigation assessment of recovered material
  4. Provision to be made for analysis of the site investigation and recording
  5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  6. Provision to be made for archive deposition of the analysis and records of the site investigation
  7. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 23 Reason To safeguard archaeological interests in accordance with the principles of the NPPF. This needs to be a pre-commencement condition given the potential impact upon archaeological assets during groundworks/construction.
- 24 Condition No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under Condition 23.

- 24 Reason To safeguard archaeological interests in accordance with the principles of the NPPF.
- 25 Condition The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 23 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- 25 Reason To safeguard archaeological interests in accordance with the principles of the NPPF.
- 26 Condition Notwithstanding the details submitted with the application, the details submitted in accordance with Condition 1 shall include an updated tree survey and Arboricultural Implications Assessment and Method Statement showing the following:
- a) a plan indicating the location of and allocating a reference number to each existing tree on the adjacent site (to the west) which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75mm;
  - b) details of the species, diameter, approximate height and condition of each tree on the adjacent site in accordance with the current version of BS: 5837, where the crown spread of that tree falls over the application site and where any tree is located within 15m in distance from the application site.
- 26 Reason To ensure that the existing trees are properly surveyed and full consideration is made of the need to retain trees in the development of the site in accordance with the NPPF. This needs to be a pre-commencement condition given the potential for trees to be lost during development.
- 27 Condition The development shall be implemented in strict accordance with the recommendations Cotswold Wildlife Surveys Extended Phase 1 Habitat Survey of Land off Nightingale Lane, Downham Market Ref 1306-CWS-05 dated 13th May 2013 and 7th May 2014.
- 27 Reason In the interests of ecology on the site in accordance with the NPPF and Policy CS12 of the Core Strategy 2011.
- 28 Condition Notwithstanding details submitted as part of the 2016 Great Crested Newt Report for land of Nightingale Lane, Downham Market (Ref 1306-CWS-08), prior to commencement of any development (including site clearance), full details of the proposed mitigation and enhancement measures (including a permanent 50m buffer between the development site and Pond 7) shall be submitted to and agreed in writing with the Local Planning Authority. The details shall include mitigation/enhancement measures to minimise the impact of the development upon the Great Crested Newt population both during construction and upon completion and a timetable for the implementation/completion/maintenance of the mitigation/enhancement works. The mitigation/enhancement works shall be completed and maintained in accordance with the agreed details and timetable, other than with the prior written approval of the Local Planning Authority.
- 28 Reason To protect the extent of the Great Crested Newt population in accordance with central government policy as expressed in the NPPF and Core Strategy policy CS12 of the LDF.

- 29 Condition The details required in accordance with Condition 1 shall include the provision of three (3) allotments on site.
- 29 Reason To secure the provision of allotments in accordance with Policies DM16 and F1.4 of the SADMP Plan 2016.

**B.** In the event that the S106 Agreement is not completed within 4 months of the date of this Committee meeting, the application shall be **REFUSED** due to the failure to secure affordable housing, public open space and play facilities, SUDS design and maintenance.