



**Planning Committee**  
**Monday, 31st July, 2017 at 9.30 am**  
**in the Assembly Room, Town Hall, Saturday Market**  
**Place, King's Lynn PE30 5DQ**

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

- a) Decisions on Applications (Pages 2 - 66)

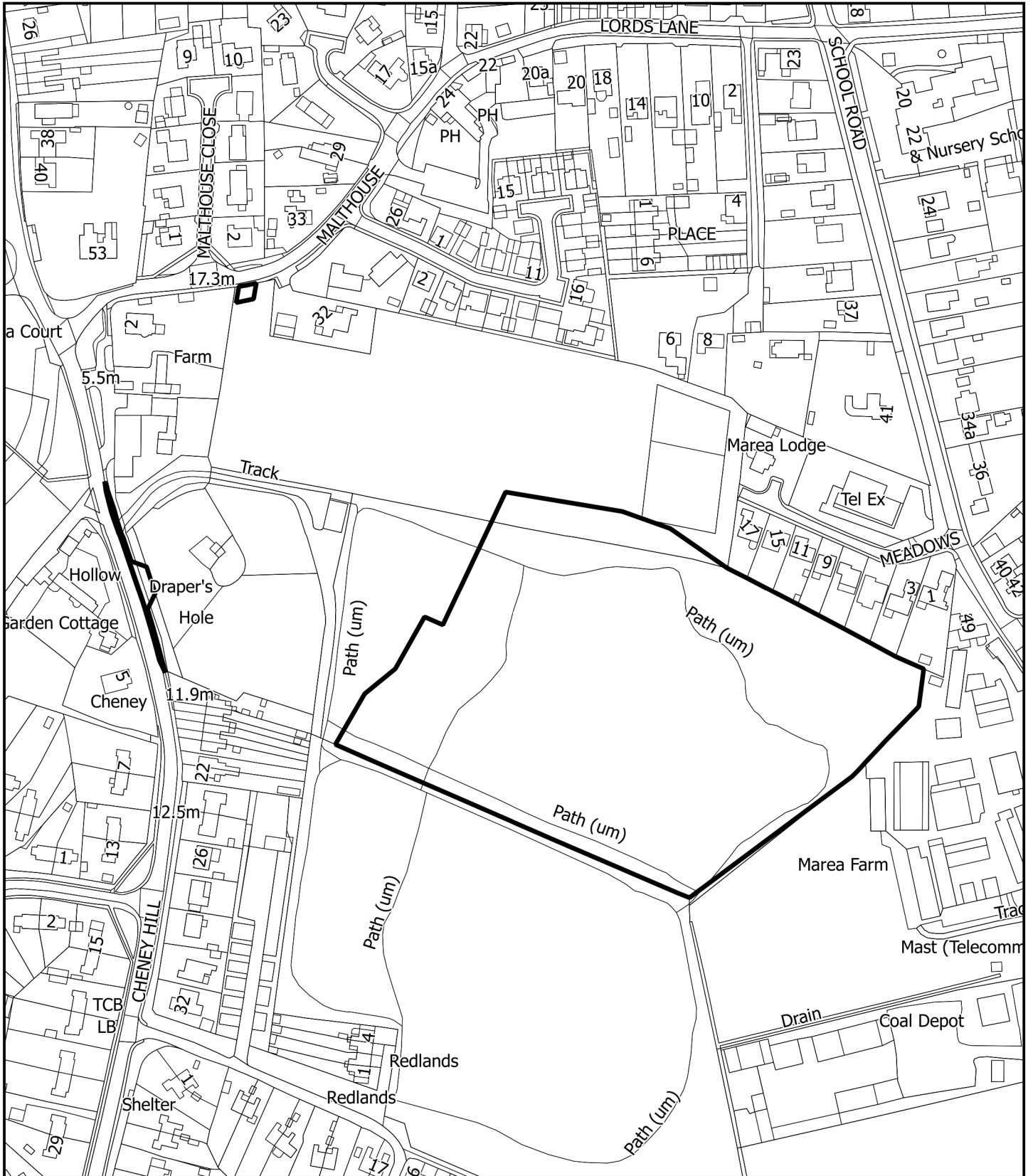
To consider and determine the attached Schedule of Planning Applications submitted by the Executive Director.

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# 16/01385/OM

## Land off Cheney Hill Heacham



<b>Parish:</b>	<b>Heacham</b>	
<b>Proposal:</b>	<b>OUTLINE WITH SOME MATTERS RESERVED: Residential development of up to 64 dwellings</b>	
<b>Location:</b>	<b>Land Off Cheney Hill Cheney Hill Heacham Norfolk</b>	
<b>Applicant:</b>	<b>W H Kerkham (Rhoon) Ltd</b>	
<b>Case No:</b>	<b>16/01385/OM (Outline Application - Major Development)</b>	
<b>Case Officer:</b>	<b>Mrs K Lawty</b>	<b>Date for Determination: 1 November 2016</b>

**Reason for Referral to Planning Committee – The views of the Parish Council are contrary to the Officer recommendation**

**Case Summary**

There are two sites in Heacham allocated for future housing. This application site is approximately one half of the larger local plan site allocation for the village of Heacham. Policy G47.1 refers to this site, and also to the part of the site already with outline planning permission for 69 dwellings (Phase 1). Policy G47.1 relates to the whole site of 6 hectares, with an allocation of at least 60 dwellings across the site.

The application site comprises just under 3 hectares of agricultural land on the edge of the built up area of Heacham. The site is currently used as agricultural land/ paddock and split into fields divided by hedgerows and drainage ditches. There are no farm buildings on site and no other structures.

The site is bounded by residential development to the east and the north east, accessed from Marea Meadows. Marea Farm and associated buildings are to the south east. To the west is land within the same ownership which already has outline planning permission approved for 69 dwellings (lpa ref: 15/00352/OM). The access road serving this current proposed development would link through from this approved development, running through to Cheney Hill in the west. This current proposal would form Phase 2 of the Cheney Hill development.

Open space and agricultural land adjoins the site to the south. The site's boundaries are generally defined by hedgerows and trees.

The dwellings to the north east and east of the site on Marea Meadows are within the established village settlement boundary but the buildings on Marea Farm are outside the settlement boundary and within the countryside.

Land to the east of the main A149, which is approximately 100m to the east of the site, is within the AONB, but the whole of the village of Heacham and this site is not within the AONB.

This outline planning application is for the construction of up to 64 dwellings on the site and for associated infrastructure. The application is in outline only with all matters reserved except for access.

### **Key Issues**

Principle of Development;  
Impact upon the wider countryside;  
Design, character and appearance;  
Impact upon Residential Amenity;  
Affordable housing;  
Access Issues;  
Flood Risk and Drainage Issues;  
Contamination  
Nature Conservation  
Ecology  
Crime and Disorder Act 1998;  
Archaeology;  
Trees;  
Utilities;  
Other material considerations.

### **Recommendation**

**(A) APPROVE** subject to conditions and completion of Section 106 Agreement.

**(B)** In the event that the Section 106 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 maintenance, Habitats Mitigation Contribution and County contributions.

## **THE APPLICATION**

There are two sites in Heacham allocated for future housing. This application site is approximately one half of the larger local plan site allocation for the village of Heacham. Policy G47.1 refers to this site, and also to the part of the site already with outline planning permission for 69 dwellings (Phase 1). Policy G47.1 relates to the whole site of 6 hectares, with an allocation of at least 60 dwellings across the site.

Initially the application covered the whole site, proposing 133 dwellings, but during the course of the application it was reduced to covering only part of the site and the numbers reduced to 64 (Phase 2).

The development site comprises approximately 3 hectares of agricultural land on the edge of the built up area of Heacham. The site is currently used as agricultural land/paddock and split into fields divided by hedgerows and drainage ditches. There are no farm buildings on site and no other structures.

The site is bounded by residential development to the east and the north east, accessed from Marea Meadows. Marea Farm and associated buildings are to the south east. To the west is land within the same ownership which already has outline planning permission approved for 69 dwellings (lpa ref: 15/00352/OM). The access road serving this current

proposed development would link through from this approved development, running through to Cheney Hill in the west.

Open space and agricultural land adjoins the site to the south. The site's boundaries are generally defined by hedgerows and trees.

The dwellings to the north east and east of the site on Marea Meadows are within the established village settlement boundary but the buildings on Marea Farm are outside the settlement boundary and within the countryside.

Land to the east of the main A149, which is approximately 100m to the east of the site, is within the AONB, but the whole of the village of Heacham and this site is not within the AONB.

This outline planning application is for the construction of up to 64 dwellings on the site and for associated infrastructure. The application is in outline only with all matters reserved except for access.

As it is in outline an indicative Masterplan has been submitted showing how the number of houses might fit on the site and also the point of access into the site.

Details of the mix of housing proposed has been submitted along with draft Heads of Terms for the S106 Agreement with regard to affordable housing, open space provision and maintenance, play facilities, county education contribution and highways works.

The application shows a single vehicular access point linking through to Cheney Hill to the west.

## **SUPPORTING CASE**

The application has been submitted along with a raft of supporting documents including:

- Site Location Plan
- Masterplan
- Arboricultural Constraints Report
- Arboricultural Impact Assessment
- Affordable Housing Statement (within the Planning Statement)
- Heritage Statement Incorporating a Geophysical Report
- Design and Access Statement
- Extended Habitats Phase 1 Survey
- Habitats Regulations Assessment
- Flood Risk Assessment and Drainage Strategy
- Geo-Technical Desk Study Report
- Landscape & Visual Impact Assessment
- Planning Statement
- Transport Assessment
- Utilities Statement
- Local Air Quality Assessment

The applicant has submitted a supporting statement which reads:-

'The application site is allocated for residential development in the approved Site Allocations Development Management Policies Document (SADMPD) (2016). A portion of the site has

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outline planning permission for 69 dwellings (15/00352/OM). The approved vehicular access on Cheney Hill remains unchanged for this current application and the Highways Authority has no objection to the approved access arrangements. An access for emergency vehicles will also be provided on Malthouse Crescent and this has received approval from the Highways Authority.

The proposed 64 houses, subject of this application, sensitively respond to the previously approved 69 houses and the masterplan presents a seamless development between the two parts of the site, as shown on the submitted masterplan and perspective drawing. The development achieves a wide mix of housing types, works with and continues the urban pattern of Heacham, respects the residential amenity of residential properties and is of a modest scale appropriate to the local setting.

All statutory consultees have supported this application and there remains no outstanding technical issues. The supporting information has satisfied all the policy requirements of Approved SADMP Policy G47.1 in relation to habitat regulations, access requirements, provision of open space, provision of affordable housing and landscape impact.

The benefits of this application proposal include:

- The provision of well-designed residential dwellings contained within a pleasant landscaped setting; assisting the Council in maintaining a robust housing land supply.
- Provision of much needed affordable housing; 20% - 13 houses in total (27 in total including the previously approved scheme)
- A significant level of public open space; 0.96ha provided (requirement 0.74 ha) Calculated as per the whole development of 133 dwellings on the full 6 ha allocated site.
- An improved walking route to the Infant school;
- Provision of a walkway through the site linking with other existing footpaths;
- CiL monies towards education, library, nature conservation and transport improvements.

As set out in the supporting information submitted with this application, this site is allocated for residential development in the adopted SADMP and has the potential to accommodate more development than originally considered. This will provide the LPA with a flexible approach to its housing provision and housing land supply position as recommended by the SADMP Inspector. The benefit of this approach is further supported by the Inspector considering an appeal at School Road, Heacham, the decision letter stated:

“37. In support of the Council’s trajectory, I note that a number of SADMP allocations have either been granted planning permission or are in the process of obtaining permission. Additionally, the allocations in the SADMP are expressed as minima and it is not inconceivable that some allocated sites will yield more than envisaged in the plan. This is evidenced more generally in the LPA’s response to the SADMP Inspector on this matter and is exemplified locally in Heacham on the main allocation at site G47.1 (where the total allocated capacity has been permitted on approximately half the allocated site area). Accordingly, I consider that the LPA’s assessment on the scale of supply from the SADMP allocations is not over-inflated.”

The Council has been adopting this flexible approach and has approved increased levels of development on allocated sites. At the Local Plan Task Group on 18 January 2017, a report was tabled which outlined the positive impact that the ‘at least’ wording was having on the Council’s housing land supply. It set out that overall 3,613 dwellings are potentially coming forward on allocations for 2,818 dwellings (this includes this current application proposal). This represents a further 795 dwellings (28% increase) which accounts for in excess of one year’s worth supply of housing land. This continued flexible approach will ensure that the Council can adequately maintain their 5-year housing land supply. This approach of

allocating more dwellings to come forward on a site that is sustainable and acceptable to the Borough Council as it is part of the Adopted Plan (and can comply with all the relevant policy requirements) is preferable than to have a number of dwellings coming forward on sites that are not part of the Plan and potentially not suitable i.e. approved according to national policy if no 5-year housing land supply position is demonstrable.

As the Council is starting their Local Plan review and considering options in relation to the future housing provision it is important to ensure sustainable development is supported. At the Local Plan Task Force Group on 12 April 2017, it was agreed that the next Local Plan should deliver 10% more than the objectively-assessed need (calculated at 670 p.a.). Therefore, the 10% adjusted figure of 737 dwellings per annum is an increase from the adopted Core Strategy requirement of 690 dwellings per annum. Therefore, this proposal represents an opportunity to provide additional housing in accordance with this emerging strategy.

The proposal for 64 houses will deliver much-needed housing (both open market and affordable) on a site that is allocated for residential development in the SADMP. The proposal will also deliver significant open space and will increase the catchment of local residents to use the village shops and services, aiding their long term viability. There is an adopted and clear policy approach which supports the approval of this application.'

## **PLANNING HISTORY**

15/00352/OM - Permitted 09.02.16 - Outline Application: construction of up to 69 dwellings and associated infrastructure

## **RESPONSE TO CONSULTATION**

**Parish Council: OBJECT** – 3 main reasons:

- A) i) the total number of proposed houses (64+69) is approximately double that which was originally allocated to Heacham and deemed sustainable by BCKLWN. Land allocations for at least 66 dwellings in Heacham are contained in the SADMP on 2 sites. Planning permission has been granted on site G47.1 for 69 units in addition to a windfall supply of 19 dwellings.

Heacham Parish Council also reminds BCKLWN of the 166 homes being built immediately to the north of Heacham and being accessed through the Heacham road network. These have been allocated to Hunstanton but Heacham will carry the brunt of the ensuing traffic issues. Before any further expansion of Heacham, common sense dictates that all the homes already under construction require to be consolidated and their impact on infrastructure monitored.

- ii) At the Heacham Inquiry [into application on School Road, Heacham lpa ref:13/01541/OM] the BCKLWN's Statement of Case said that developing 70 market housing units [ for this School Road appeal site] for Heacham plus the preferred options site would result in 136 units being developed over the plan period in Heacham. This is just over double the number of general housing units anticipated by the Local Plan. Proposed development that conflicts with an up to date Local Plan should be refused unless other material considerations indicate otherwise. If there is no five year housing supply, then the same approach applies albeit the application of para 14 of the NPPF may result in material considerations outweighing any breach of policy. The same criticism levied by the LDF Manager

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in response to the failed School Road application should apply; so this application should be refused. 133 houses on this site is 64 houses over and above the 69 houses which were agreed last year.

- iii) BCKLWN's Closing Statement 14th July Inquiry Under the heading 'Sustainable development.' (Abridged) Scenario 1,  
"The proposal (for 70 marketable homes etc.) is approved .... The 2 proposed sites (G47. 1 and G47.2) are adopted..... The resulting development is on a scale that Heacham cannot sustain given the level of services, pool of labour and public transport links."  
Under 'Summary'.  
"Provision is made for 66 dwellings in Heacham through the Local plan process. This would represent a sustainable level of development".

Heacham Parish Council agrees with these words. Heacham is already at a stage of unsustainable development and adding more dwellings would be an act of folly.

- iv) BCKLWN's Closing Documents (QC) 14th July Inquiry  
Paragraph 59 in reference to the School Road development succeeding:  
"There will be an increase in market housing at Heacham of about double the planned provision. There has been no challenge to the principle of the settlement hierarchy nor any challenge to the methodology used to assess the appropriate level of growth at each settlement. Substantial weight must be given to the Council's Core Strategy and its emerging SADMP." The statement made by BCKLWN's QC given above could be written exactly the same with reference to this application for 64 houses plus the 69 already agreed (total 133) - it doubles the planned provision and ridicules the settlement hierarchy.

- B) Part of the development site, if built upon, will intrude on landscape quality.

The proposed development site is adjacent to the failed School Road site along one edge. The planning inspector at the public enquiry into School Road made several references to the Heacham Millennium Wood. Heacham Parish Council considers that approximately half of the proposed development site, that half nearest to the failed School road site, impacts upon the views enjoyed from the location of Heacham Chalk Pit and, consequently, that part of the site should not be used for development.

- C) Road access to and from the site is unacceptable. When the proposal for 69 houses on this site came forward in 2015 Heacham Parish Council objected on two grounds; the increase in housing numbers from 60 to 69 and the road access which the Parish Council considered inadequate and potentially dangerous. The road access to this proposed development of 64 houses plus the 69 already agreed (total 133) has not significantly improved and is consequently rejected outright by Heacham Parish Council.

### **Planning Policy Team**

Thank you for consulting the planning policy team regarding the above amendment to the application.

The Borough Council has an up-to-date local plan. This comprises the Core Strategy (CS) (2011) and the Site Allocations and Development Management Policies Plan (SADMP) (2016). The Borough Council can also demonstrate a housing land supply position in excess of five years' worth. This was upheld at appeal ('Heacham' APP/V2635/W/14/2221650). An



application for permission was made to bring a claim under s.288 (1) of the 1990 Act challenging the Inspector's decision. Permission was refused (CO/4336/2016).

This means that relevant policies for the supply of housing should be considered up-to-date. The local policy framework is securing a deliverable supply against a slightly higher full objectively assessed need (FOAN) consequently the policies are fully consistent with the National Planning Policy Framework's (NPPF) objectives to widen housing choice and boost supply significantly. Accordingly full weight should be attached to development plan policies.

There have been some significant changes in circumstances regarding 5 year housing land supply since the above appeal decisions. These can be summarised as follows:

- The publication of a new FOAN based upon the latest data (at the time) published by DCLG and ONS. This concludes the FOAN for the borough to be lower (670 dwellings p.a.) than the previous FOAN (710 dwellings p.a.), and;
- The publication of the Borough Council's annual update of its housing land supply position based upon the above. This concludes that a 5 year housing land supply position is maintained with 5.9 years' worth.

The application relates to part of a site (approx. 50%) which is allocated for residential use by SADMP. Policy G47.1 Heacham – Land off Cheney Hill allocated an area of land amounting to 6 hectares for a residential development of at least 60 dwellings. The site by virtue of being identified as a SADMP allocation, having been through the whole local plan process, has been identified as a sustainable location for residential development.

Planning permission (15/00352/OM) has already been granted for up to 69 dwellings on approximately 50% of the allocated site. In combination with the current proposal this could potentially lead to a total of 133 dwellings being built.

The issue of flexibility and provision of dwelling numbers was central to the SADMP Inspector's report, in which will a number of main modifications he found to be 'sound' and therefore could be adopted. The first main modification recommend was the inclusion of 'at least' in each of the residential allocation polices with regard to dwellings numbers. The inspector considered that this would enable the Borough Council to meet the housing need and afforded flexibility to guard against a site or sites not being able to be delivered as envisaged due to unforeseen circumstances or constraints such as flood risk (a key constraint within the borough). The 'at least' wording would therefore allow higher numbers to come forward on sites that are relatively constraint free. The Inspector within his report also states that it is important that the best use of land is achieved but that should not be at the expense of other considerations.

It is important to note that the 'at least' approach has been a key component in enabling the Borough Council to be able to demonstrate a positive five year housing land supply position, as mentioned earlier. Indeed the 'Heacham' Inspector in his report concluded that the Borough Council's assessment of land supply was not over inflated as the SADMP allocation were all expressed a minima it was not inconceivable that some of allocated sites will yield more dwellings than the plan envisages. He considered that this was exemplified by the allocation G47.1 (where the total allocated capacity has been permitted on approximately half the allocated site area), to which this current proposal related to.

As a recommended by the SADMP Inspector the Borough Council is currently reviewing the Local Plan (CS & SAMP). This looks forward from 2016 to 2036 and is seeking to provide a number of residential allocations to meet the FOAN (670 dwellings p.a.) over this time period.

Whilst Policy G47.1 does offer flexibility in terms of the numbers which could come forward on the site, by expressing the number dwellings as 'at least', careful consideration needs to be given to the impacts that delivering extra dwelling numbers on the site could potentially have upon the local and wider natural and built environment. It is vital that the proposals on the allocated site G47.1 are not only consistent with the policy for the site, but also others within the Local Plan (particularly SADMP Policy DM15 – Environment, Design and Amenity) as well as having regard to national policy (NPPF).

**Highways Authority: NO OBJECTION** – conditionally

**Internal Drainage Board: NO OBJECTION** – conditionally; further tests will be required to prove that the infiltration drainage techniques proposed would be an effective method of surface water disposal across the whole site. would recommend that any drainage systems which serve multiple properties or communal areas are commuted to a competent authority (not a management company) and designed in conjunction with that authority.

Pre-commencement conditions should ensure that full details of the surface water disposal methods and drainage systems – including further percolation test results, existing and proposed rates and volumes of run-off, details of exceedance routes and how flows are managed and in perpetuity maintenance arrangements for any communal drainage systems – have to be submitted and approved prior to commencement of development.

**Environment Agency: NO OBJECTION** – conditionally - It will now be necessary for you to consult the Lead Local Flood Authority (LLFA), Norfolk County Council, in respect of its statutory consultee role on planning, specifically sustainable surface water drainage.

**Anglian Water: NO OBJECTION** – conditionally - The foul drainage from this development is in the catchment of Heacham Water Recycling Centre that will have available capacity for these flows; the sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991; the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management.

**Environmental Health & Housing - Environmental Quality: NO OBJECTION** but commented that conditions should be attached.

**Environmental Health & Housing - CSNN: NO OBJECTION** – conditionally; Foul and Surface Water Drainage Details; Lighting Scheme; Dust suppression; Protection scheme from construction; construction management plan

**Lead Local Flood Authority: NO OBJECTION** – conditionally - The applicant has provided Site Specific Flood Risk Assessment (FRA) and Drainage Strategy (Transport Planning Associates, ref.1603- 50/FRA/02, April 2017) for the site of 6.2 ha with 133 dwellings proposed. The current application has a site area of 2.96 ha with up to 64 dwellings. No FRA and Drainage Strategy has been provided for the site of 2.96 ha. In further correspondence with the developer (email from John Hopkins, 9 May 2017) it has been established that the FRA and the drainage strategy has been produced for planning applications 15/00352/OM and 16/01385/OM together - Phases I and II, accordingly. Suggest condition requesting new surface water drainage scheme prior to approval of reserved matters.

**Natural England: NO OBJECTION** subject to appropriate mitigation being secured

**Arboricultural Officer: NO OBJECTION** in principle but I would like to see a tree survey and a survey of the hedge lines at full application stage.

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**County Planning Obligations Team: NO OBJECTION** – subject to contributions towards education and library books being secured through CIL. Suggested contribution towards Council's green infrastructure responsibilities.

**Historic Environment Service: NO OBJECTION** – conditionally. If planning permission is granted, we therefore ask that this be subject to a programme of archaeological work in accordance with National Planning Policy Framework para. 141.

**Housing Enabling Officer: NO OBJECTION** – conditionally

**Open Space Officer: NO OBJECTION** – conditionally; requirement for 56m<sup>2</sup> open space per dwelling ( 30% equipped children's play space); robust arrangements for maintenance of landscaping/boundary landscaping; comments re: maintenance of soft landscaping on the outside of property boundary features; footpaths would not be adopted by this authority, preference for these to be adopted as public highway (i.e. section 38).

**Public Rights of Way Officer: NO OBJECTION** - on public rights of way issues, but made comment regarding pedestrian links and dog walking facilities.

**Secured by Design Officer: NO OBJECTION** acknowledges this is merely an indicative layout at outline stage but would be pleased to work with the agent or developer to ensure that the proposed development incorporates all of the required elements.

## REPRESENTATIONS

Sir Henry Bellingham **objects** – the original figure for 69 dwellings is sustainable and in keeping with the spirit of the LDF. The figure of 133 dwellings is simply not sustainable or acceptable.

Councillor Terry Parish objects. Change from 133 houses to 64 is confusing and no mention made of reduction ie. CIL. 88 houses already approved in Heacham (69 and 19 windfall) is above 'sustainability'. The number of houses is significant. 'At least' does not mean an unlimited number and is a careless use of language.

More traffic will flow through Heacham to avoid congestion on the A149 following the construction of the Hopkins Homes roundabout. This will be compounded when Lidl is operating. These cannot be viewed in isolation. Need to look at the whole picture. Pre-Application discussion not disclosed. Concern re: road access, adverse affects on services, detrimental impact on landscape quality, object to proposed improvements to footpaths which will destroy a grass verge.

Councillor Colin Manning Objects. Overdevelopment; traffic and visibility problems near the school made worse, no need for 133 properties, double the original figure, additional application is unacceptable.

**257** third party comments received to the two rounds of public consultation. Some people have written in more than once and comments received refer to the following:-

Amount of development

- This would double the number of houses proposed which is unacceptable
- Will unacceptably change the character of the village/lose identity

- Too much housebuilding in the area; it is time to stop
- Number of dwellings is unsustainable and inappropriate in a village
- The encroachment of Hunstanton and Heacham by recent development already makes Heacham busy; this will make it worse
- Will create slums/backward step
- Not needed in the village
- Does not accord with LDF Policy
- Cumulative impacts of all development in this part of the borough
- overdevelopment

#### Traffic:

- Impact on road infrastructure/can't cope
- Will add to existing congestion on A149
- Will increase the volume of traffic through the village
- Danger to pedestrians from additional traffic, particularly children going to school
- Highway safety issues from cramming in houses and vehicles
- Heacham will soon be a rat run/traffic shortcut with more traffic as a result of existing development on edge of Hunstanton; this will exacerbate traffic problems
- Poorly designed, dangerous access into the site

#### Infrastructure/amenities:

- No amenities for new residents
- Not enough facilities/services for existing residents e.g. doctors, dentists, school places, social services

#### Noise/pollution:

- Concern regarding pollution from extra traffic
- Air quality issues
- Noise from construction
- Noise from extra traffic

#### Wildlife:

- Loss of land for wildlife
- Impact on existing wildlife

#### Countryside:

- Loss of land for crops
- Impact on countryside/visual impact

#### Drainage

- Surface water drainage issues
- Foul drainage concerns

#### Other:

- No employment locally; residents will need to travel for work
- Parish Council comments are being ignored

- Local opinion being ignored
- Affordable housing is never affordable
- No houses for young people
- Loss of land for dog walking
- Harmful impact on resident's quality of life
- Not beneficial to the village only the developer's pocket/ greed
- Dangerous precedent if approved
- Developer has halved the number of units to get an approval
- Number of units reduced to avoid paying CIL
- Irresponsible to allow more development in Heacham
- Developer should pay for a one way system to be in place
- Loss of grass verge in School Road
- Leave the green belt alone
- Local tourism will fail due to congestion

Supporting comments have made reference to:

- Good location
- Provision of family homes
- The government provides funding for local services

## **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

**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

**DM17** - Parking Provision in New Development

## **PLANNING CONSIDERATIONS**

The key principle issues to be addressed in this instance are: -

- Principle of Development;
- Design, character and appearance;
- Impact upon Residential Amenity;
- Affordable housing;
- Access Issues;
- Flood Risk and Drainage Issues;
- Contamination
- Nature Conservation
- Ecology
- Crime and Disorder Act 1998;
- Archaeology;
- Trees;
- Utilities;
- Other material considerations.

### **Principle of Development**

The development site comprises approximately 3.0 hectares of agricultural land on the edge of the built up area of Heacham. Ground levels change modestly across the site.

In February last year outline planning permission was approved for up to 69 dwellings on the land to the west of this application site. This is owned by the same applicant. Vehicle access for this site was from Cheney Hill and this current application proposes to use the same access point. This proposed development would form Phase 2 of the Cheney Hill site allocation.

The whole of this application site is approximately one half of one of the sites allocated for housing for the village. A smaller allocation is on St Mary's Close (at least 6 dwellings on 1.3 hectares) and the larger allocation on Cheney Hill for at least 60 dwellings on 6 hectares. Policy G47.1 of the Site Allocations and Development Management Policies Plan 2016 refers:

'Policy G47.1 Heacham - Land off Cheney Hill

Land amounting to 6 hectares, as shown on the Policies Map, is allocated for residential development of at least 60 dwellings. Development will be subject to compliance with all of the following:

1. Establishment of safe pedestrian and vehicular access to the site with primary access from Cheney Hill. Opportunities for increasing connectivity to the surrounding secondary road network for pedestrian/cycle access should be explored;

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2. Submission of details of layout, phasing, and conceptual appearance;
3. Submission of details showing how sustainable drainage measures will integrate with the design of the development and how the drainage system will contribute to the amenity and biodiversity of the development. A suitable plan for the future management and maintenance of the SUDS should be included with the submission;
4. A financial contribution for any upgrades or additional provision in terms of water supply, sewerage, schools, highways etc. necessary to serve the development;
5. Enhanced informal recreational provision on, or in the vicinity of the allocated site to limit the likelihood of additional recreational pressure (particularly in relation to exercising dogs) on Habitats Regulations protected nature conservation sites in the wider area.

This provision may consist of some combination of:

1. informal open space (over and above the Council's normal standards for play space)
2. pedestrian routes which provide a variety of terrain, routes and links to greenspace and/or the wider footpath network;
3. a contribution to greenspace provision or management in the wider area within which the site is located;
6. Provision of a programme of publicity aimed at both occupants of the development and other residents of Heacham, highlighting the opportunities for recreation (especially dog walking) in the vicinity avoiding areas within the Wash Special Protection Area and the North Norfolk Coast Protection Area and the North Norfolk Coast Special Protection Area, and the sensitivity of those areas to dog walking and other recreation.
7. A project level habitats regulations assessment, with particular regard to the potential for indirect and cumulative impacts through recreational disturbance to the Wash Special Protection Area and the North Norfolk Coast Protection Area.
8. Provision of affordable housing in line with the current standards.'

This current proposal is for up to 64 dwellings. The previous application (Phase 1) approved up to 69 dwellings. Collectively (Phases 1 and 2) i.e. the whole site, would provide for up to 133 dwellings which would be 73 more dwellings than the number in Policy G47.1, albeit that this number is caveated by the words 'at least' and is therefore a minimum figure not the maximum.

In terms of density this would result in a figure of 21.3dph across this part of the site. The previously approved permission (Phase 1) had a density of 22 dph which is a particularly low density when compared to immediately surrounding development. For example Benstead Close to the north is a recent development and has a density of approximately 40dph. Marea Meadows to the east is approximately 21 dph and the east side of Cheney Hill, closest to the site, is approximately 25 dph.

At the LDF site allocation stage the reason for the large site allocation was to provide the opportunity at the design stage for a number of options to be explored in relation to the design and open space provision. However, during the consideration of Phase 1 it was agreed that for the whole site to be developed for just 60 houses it would provide a development of too low a density to be in keeping with the surrounding area. The NPPF and local policy promotes good design and development which responds to local character and respects the identity of local surroundings. Additionally the applicant confirmed that this would not be commercially viable. On this basis, and as the scheme met the policy requirements of G47.1 Phase 1 was approved.

This current scheme follows the same density as Phase 1 and links into this approved development. In response to housing numbers on the allocated sites the Local Plan Task Group considered the impacts of the 'at least' wording imposed by the Inspector during the

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Local Plan Hearing. At their meeting of 18 January 2017 the Task Group found that the wording is having a positive effect on housing delivery which is helping to maintain the Council's five year supply and boosting significantly housing as per the NPPF. It concluded:

'It is clear that by expressing the SADMP allocations as 'At Least x number of dwellings' is having a positive impact upon the number of dwellings coming forward. Whilst some sites have come forward for the same number of dwellings as specified by the relevant policy as a minimum, and some have even come forward for less, overall 3,613 dwellings are potentially coming forward on allocations for 2,818 dwellings. This represents a further 795 dwellings coming forward that could have without the Main Modification. This accounts for in excess of one year's worth of supply with an FOAN of 710 dwellings per year, and highlights the importance of the Main Modification in the context of five year housing land supply and meeting the housing need of the borough.

Whilst there is the potential for sites to come forward for a higher number than the minimum number provided by the relevant SADMP Policy, the proposal will still be judged against that policy, others contained within the SADMP and Core Strategy, as well as National Policy.'

These findings were based on a summary of applications submitted in January, with the figures for this site shown as 133. Consequently this current application is adding towards the five year housing land supply and meeting the housing need of the borough.

The site has already been established through the local plan process as being in a sustainable location in terms of its proximity to the village and its services which enables new residents to easily access village facilities by walking or cycling.

The Parish Council and third parties have raised objection to the number of units resulting in a scale of development which they believe is unsustainable in terms of services, employment and transport.

The Borough Councillor, Parish Council and third parties have made reference to the Heacham appeal and its outcome with regard to the scale of further development in the village. In particular they make reference to the Council's closing submission in the appeal, and feel there are similarities with the circumstances of the current application, to the appeal case. Members will recall that this appeal related to a site off School Road Heacham, which is outside the existing development boundary. The application proposed the construction of a care home, housing with care facilities and 70 new homes along with allotments and infrastructure. The application was refused and then dismissed on appeal.

The Inspector's Appeal decision is attached at the end of this report.

In the appeal decision the Inspector observed:

'37... the allocations in the SADMP are expressed as minima and it is not inconceivable that some allocated sites will yield more than envisaged in the plan. This is evidenced more generally in the LPA's response to the SADMP Inspector on this matter and is exemplified locally in Heacham on the main allocation at site G47.1 (where the total allocated capacity has been permitted on approximately half of the allocated site area). Accordingly, I consider the LPA's assessment on the scale of supply from the SADMP allocations is not over-inflated.

The Inspector therefore acknowledged that site G47.1 (along with other allocations) could provide more housing than envisaged in the plan and makes reference to this at para 37. At para 81 he commented '...the proposed housing allocations in the SADMP, extant permission and windfall potential within Heacham provide ample scope for local housing

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need to be met in a sustainable way' recognising that the numbers of houses on site G47.1 would very likely increase given that the total allocated capacity had already been permitted only on approximately half of the allocated site area.

Recognising this existing potential for higher figures on known sites within Heacham, the Inspector found that a further 70 dwellings, as proposed by the appeal, would then harmfully unbalance the spatial strategy for this settlement and conflict with the development plan and the appeal was subsequently dismissed. This was a key factor in the appeal decision.

Although there are undoubtedly concerns locally that this current development proposed would be unsustainable officers view on this issue is that the Inspector clarifies in this appeal decision that future growth for the village through the proposed housing allocations in the SADMP would be met in a "sustainable way".

However, the site is already allocated as land appropriate for development, through the local plan process. It is close to existing facilities within the village by walking and cycling as well as access to the surrounding road network. It has connectivity to the surrounding towns and villages.

In this case the applicant has demonstrated that the number of units can be accommodated on the site with no harm to the character or appearance of surrounding development. Ultimately the layout would be determined at reserved matters stage, but the submitted Masterplan indicates that the requirements of Policy G47.1 can be met.

In this case it is considered that the principle of development for residential use of this site is to be supported.

#### Design, character and appearance

The diamond shape application site has no road frontage; it backs onto properties on Marea Meadows to the north east and to the buildings associated with Marea Farm to the east. The site is an open field and is separated from Benstead Close and Cheney Hill to the west by the previously approved Phase 1 development area. There are few constraints on the site. The only vehicle link to a highway is to the west travelling through the Phase 1 part of the site.

The application is in outline with all matters reserved other than access. Consequently details of the proposed appearance, layout and scale of the residential development are not for consideration at this stage. An indicative layout has been provided and the applicant explains that the indicative appearance and layout of the houses has been influenced by the existing character of Heacham.

The proposed layout shows a density of 21.6 units per hectare across the site. ( 64 dwellings on 2.96 hectares). The road layout shows the link through to Phase 1 and a central loop road with cul-de-sac development spurring off to the south. An area of open space is located to the eastern part of the site.

The applicant states that the following design objectives have been at the heart of the formulation of the design and layout of proposals:

- Provide a residential development of detached, semi-detached and terraced houses, contained within an integrated landscape setting;
- Develop a sustainable, carefully considered and sensitive scheme within Heacham;

- Provide an integrated network of streets with pedestrian access off both Cheney Hill and Malthouse Crescent;
- Create an interlinked green corridor through the site comprising community gardens and village green.
- Provide a comprehensive network of dog walking opportunities on site.
- Retain on site mature hedgerows and trees, and incorporate additional hedgerows and trees into the proposed scheme.

No details on house designs have been provided at this stage. However, the Planning Statement envisages that the proposal will predominantly take the form of two storey buildings with a small number of 2.5 storey buildings. This reflects the scale of development in the local area as described in the Design and Access Statement. The mix will incorporate the appropriate amount of affordable housing units. However, should planning permission be forthcoming a full breakdown of housing mix and tenure will be agreed at a later detailed stage.

No information regarding building materials has been provided at this stage although the supporting documents refer to the development being influenced by the existing character of Heacham. Reference to local building materials, namely red brick, carstone and pantile roofs would be expected, with the road frontage properties being the most visually apparent and important properties.

The proposed layout gives opportunity for landscaping and planting. The landscaping will be an important part of a successful scheme given that the site adjoins the open countryside.

Details of maintenance arrangements for all open space would need to be covered by S106 legal agreement and reference to this has been made within the submitted draft heads of terms.

### **Impact upon Residential Amenity**

There are existing residential properties on the north eastern site boundary, but otherwise existing residential properties are separated by the Phase 1 approved development to the north and west.

A proposed site layout has been submitted, but no elevation plans. The ground levels change across the site. An assessment of the impact upon the amenity of neighbouring properties cannot be fully undertaken at this stage with such limited information and will need to be addressed at the detailed design stage.

The key areas for the consideration of the impact upon the amenity of the occupants of neighbouring properties are issues of overlooking, overshadowing and whether or not the dwellings will be over bearing. However, it is considered that the site is of sufficient size to ensure that appropriate measures can be designed into the scheme to ensure loss of privacy and loss of daylight is mitigated effectively.

It is unlikely that the proposed development would result in any significant neighbour amenity issues.

### **Affordable housing**

The site is of a size where it needs to provide 20% affordable housing in accordance with Core Strategy Policy CS09. Policy CS09 also states that the preferred tenure split for the

delivery of affordable housing is; 70% affordable rent and 30% shared owner. It is also referred to in draft Policy G47.1.

An Affordable Housing Statement has been submitted within the Planning Statement. The provision of 27 affordable dwellings (19 for rent and 8 for shared ownership) meets the Council's policy requirement to provide 20% affordable housing. The Masterplan shows that the site provides the opportunity to locate affordable accommodation throughout the site in a manner that reflects the requirements of both the eventual Registered Social Landlord and the Council.

A full breakdown of the affordable housing mix and tenure would need to be provided at a later stage of the planning process. The affordable housing contribution will be confirmed through entering into a s106 Agreement with the Council. Draft Heads of Terms have been submitted with the application and the S106 Agreement will need to be secured prior to the issuing of any planning permission.

The Housing Development Officer raises no concerns regarding the proposal.

### **Access Issues**

Core Strategy policy CS11 requires new development to reduce the need to travel and promote sustainable forms of transport appropriate to their location. Policy DM15 requires that development proposals should demonstrate that safe access can be provided and adequate parking facilities are available. DM17 refers to parking provision within new development. Para 32 of the NPPF states the need for developments to provide safe and suitable access for all and for sustainable transport modes opportunities to be taken up. The NPPF also states that development should only be refused on transport grounds where the cumulative impacts of the development are severe.

The Transport Statement that accompanies this application demonstrates that there are no technical reasons to object to the access solution developed for this scheme and that the site benefits from a reasonable level of accessibility via all modes of transport, given its village location. Additionally, a number of off-site highways works are recommended in the Transport Statement and can be delivered as part of the scheme.

The Transport Statement outlines that low traffic flows were observed in Heacham during the AM peak hour, therefore, traffic generated by the proposed development is likely to become a high proportion of the total traffic. It is therefore possible that the new trips may initially be noticed by residents in the immediate vicinity.

However, the Transport Statement concludes that in terms of operational capacity, the proposed development is unlikely to materially affect the operation of the surrounding local highway network. Therefore it is considered that the proposal can be delivered without adverse impact on the capacity or safety of the highway network.

Initial concerns were raised by the Highways Authority relating to the dimensions of the visibility splays at the entrance to the site from Cheney Hill. However, the applicant has supplied additional information which addresses the concerns of the Highway Authority.

In the event the development is approved the Highways Authority recommend the developer produce a Construction Traffic Management Plan to ensure matters such as the how and when delivery vehicles will access the site, temporary wheel washing facilities during the construction period and on-site parking for construction vehicles can be agreed prior to works commencing on site. It is recommended delivery vehicles be directed to / from A149 via Lamsey Lane & Cheney Hill, rather than routed through the centre of the village.

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Additionally the Highway Authority recommends conditions and informatives be appended to the consent notice relating to off-site highway improvement works, the submission of detailed plans of the roads, footways, foul and surface water drainage, visibility splays and construction of the roadways and footpaths.

Conditionally there are no outstanding highways issues.

The Public Rights of Way Officer raises no objection to the proposal. However, he comments that this area is generally poorly served by public access to the countryside. The previous permission for Phase 1 approved pedestrian access points to the north west corner onto Malthouse Crescent and also to the east onto Marea Meadows. This current proposal makes no changes to that situation.

The proposal also provides for a circuitous footpath to encourage dog walkers to stay in the vicinity rather than travel out to the nature conservation areas along the north coast. The PROW Officer suggests the land to the south of the application site that remains in the control of the applicant could be used to provide a linear perimeter link to the development but this is not a proposal by the applicant and, as it would not be overlooked by residences, it could result in secured by design issues. Accordingly this is not being pursued.

Parish Council and third party objection has been made to the location of the proposed new vehicle access on Cheney Hill, and to highway safety issues for pedestrians near the school, but as referred to above, the access point has been amended since the public consultation exercise and the Highways Authority are now happy with the position and design in terms of highway safety.

### **Flood Risk and Drainage Issues**

The majority of the site is located in Flood Zone 1 (low risk). The Flood Risk Assessment supporting this application identifies that the risk of flooding is considered to be negligible.

The submitted Site Specific Flood Risk Assessment and Drainage Strategy concludes that the site's proposed land use, being classified as 'More Vulnerable', is suitably located within Flood Zone 1 in accordance with NPPF Tables 1-3. It recommends that a detailed surface water drainage design is provided and approved as part of the technical approval process prior to construction on site. This can be subject to a planning condition and be addressed as part of a reserved matters application.

The Strategy confirms that foul water from the development will be drained via a separate Foul Water Sewer, to be adopted under a Section 104 agreement with Anglian Water. Foul water will discharge at a rate agreed with Anglian Water into a public Foul Water sewer within Cheney Hill and Malthouse Crescent.

The LLFA initially objected to the proposal based on the information submitted and the fact that the drainage scheme for Phase 2 relies upon works covered within land within the Phase 1 area. Following the submission of additional information, however, the LLFA have withdrawn their objection subject to the imposition of a planning condition requiring more detailed information relating to the surface water drainage scheme at reserved matters stage.

The Environment Agency has raised no objection to the proposal regarding flood risk, surface water drainage and foul drainage.

The IDB has also requested more details regarding the surface water drainage scheme and that these be agreed before any scheme is brought into use. Particular attention would need to be given to perpetuity maintenance arrangements for all SUDS, particularly where they affect any public open space. Details of maintenance arrangements will need to be covered in the S106 legal agreement.

Accordingly, subject to the imposition of appropriate planning conditions it is considered that the proposal complies with Core Strategy Policy CS08 and draft Policy G47.1.

## **Contamination**

A Geo Environmental Desk Study supports this planning application.

The site walk-over and historical review did not identify any potential sources of contamination. In light of this the desk study concluded no recommendations for site investigation.

However, the Environmental Health Officer has requested full contamination conditions given that the area in which the site is located can be subject to elevated naturally occurring contamination.

Concerns over information relating to air quality have been addressed and the Environmental Health Officer confirms there are no outstanding objections on air quality grounds.

## **Nature Conservation**

Policy G47.1 makes clear at point 5 there is an expectation for enhanced recreational provision on or in the vicinity of the allocated site. This requirement is linked to the proximity to protected nature conservation sites in the wider area.

The indicative Masterplan accompanying this application illustrates the potential to provide open space within the development. There is also an opportunity to provide a walking route within the site linking to Phase 1 development and other areas adjacent to encourage walking and healthy living. The indicative route is shown on the Masterplan although details of the exact location of this route will be finalised during the detailed design stages of the layout.

Additionally the application has been supported by the submission of a Habitats Regulations Assessment (HRA), by Southern Ecology Solutions (SES), to investigate the impact on nature conservation sites. The HRA highlights a number of options that can be delivered as part of the proposal to mitigate any impact on nearby SACs, SPAs, Ramsar sites and SSSIs.

The proposed mitigation is to provide a combination of all three delivery mechanisms in line with policy G17.1, comprising:-

- some 'informal' on-site open space,
- links to greenspaces, and
- a contribution to the management and monitoring of the Wash SPA at Heacham.

To provide local greenspace for use by the new community for regular walks and dog-walks, the masterplan incorporates 0.8ha of on-site Suitable Alternative Natural Green Space (SANGS) including a suitable circular extended walking route. Pedestrian links have been designed to join adjacent existing routes to local greenspaces. An agreed developer financial

contribution will be made per new household, to provide funds for the management and monitoring of the SPA, to ameliorate impacts on these more distant greenspaces, requiring car-based journeys. Such a combined approach will negate any requirement for further off-site SANGS

On this basis, the HRA concludes that the recreational pressure arising from the proposal will result in no likely significant adverse effects (in isolation or in combination with other plans or projects) on the integrity of nearby designated sites. Accordingly, the applicant considers that the proposal accords with the requirements of Policy G47.1 and the relevant wildlife legislation.

The application is subject to the £50 per household contribution towards the Habitat Mitigation Tariff to implement the Borough-wide mitigation strategy.

Consequently, subject to the applicant agreeing to appropriate mitigation measures, development of the site will not have effects in isolation or in-combination effects upon nature conservation sites.

Policy DM16 relates to the provision of recreational open space for new residential developments across the borough. Using the methodology for the provision of open space within this policy (based on an average of 2.33 people per household and a requirement for 2.4 hectares open space per 1000 population) this site for 64 dwellings would normally be expected to provide 0.36 hectares of open space. This would be expected to be 70% amenity and outdoor use and 30% equipped play space.

The submitted Habitats Regulations Assessment confirms that a total of 0.96ha open space will be provided across the wider Phase 1 and 2 sites. The previous application for Phase 1 approved 0.6ha and this current application proposes an additional 0.36ha, equating to 0.96ha. The policy requirement for a total of 133 houses is 0.74ha so the provision of a total of 0.96ha across the whole site exceeds the standard requirements.

The NCC Landscape and Green Infrastructure Officer has requested a contribution towards work relating to proposed new coastal accesses in the area amounting to £200 per dwelling (or £12,800). However, the development is CIL liable and Strategic Green Infrastructure is listed on the Regulation 123 List as one of the infrastructure projects which may be wholly or partly funded by the Borough's CIL receipts. Accordingly the NCC request in this case cannot be pursued.

The submitted Habitats Regulations Assessment found that, subject to the development incorporating additional recreational provision in the form of informal open space and dog walking facilities, footpath links to existing pedestrian routes and the applicant agreeing to undertake the appropriate mitigation measures as set out in the Natura 2000 Sites Monitoring and Mitigation Strategy with specific regard to the Habitat Mitigation Contribution, then permission may be granted.

Consequently, if the application is to be supported the applicant will be required to provide on-site open space for recreation purposes, including a walking route within the site, provide links to existing pedestrian routes and provide the Habitat Mitigation Contribution of £50 per house (plus legal and administration costs) towards appropriate projects set out by the Habitat Mitigation Advisory Panel. This financial contribution would need to be secured through a clause in the legal agreement.

## **Ecology**

The NPPF advises that the planning system should minimise the impact on biodiversity with the aim to conserve and enhance biodiversity (paragraph 118). Core Strategy Policy CS12 states that development proposals which may affect biodiversity will be required to provide appropriate measures to mitigate any adverse impacts.

The Extended Phase 1 Habitats Survey supporting this application states that the site broadly consists of semi-improved grassland fields. Hedgerows dissect these fields and horses are present grazing certain fenced areas. The site is located in close proximity to several statutory/non-statutory designated sites for nature conservation. The site was resurveyed in 2016 and conditions were found to be very similar to the results of the original survey in 2014 with consistent management practices resulting in no significant changes to the habitats on site.

Accordingly precautionary methods recommended include:

- Retention of hedgerows and trees. Hedgerows enhanced through additional native plantings. Any clearance of these habitats should be undertaken in a staged way and compensated through further planting;
- If works are to be undertaken during the breeding bird seasons (March to August inclusive), a nesting bird check is required to ensure that there is no nest disturbance within the site; and
- Sensitive lighting strategy; and
- Pre-construction badger survey.

The Extended Phase 1 Habitats Survey concludes that through the above survey and precautionary methods, given the small scale and low impacts of the current proposal it is considered that all significant impacts upon biodiversity, including any potential adverse impacts upon specific protected species, habitats and designated sites will likely be able to be wholly mitigated in line with relevant wildlife legislation.

It is recommended that planning conditions be imposed with regard to the retention of hedgerows and trees and details of any lighting scheme prior to installation. Similarly conditions relating to works being conducted outside the bird breeding season and a pre-construction badger survey are recommended.

In light of the above it is considered that the proposal accords with Policy CS12 of the adopted Core Strategy.

### **Crime and Disorder Act 1998**

Section 17 of the above act requires Local Authorities to consider the implications for crime and disorder in the carrying out of their duties.

The Police Architectural Liaison Officer acknowledges this is merely an indicative layout at outline stage and would be pleased to work with the agent or developer to ensure that the proposed development incorporates all of the required elements.

### **Archaeology**

The NPPF and Core Strategy Policy CS12: Environmental Assets require proposals to avoid, mitigate or compensate for any adverse impacts on heritage. The design of new development should be sensitive to the surrounding area, and not detract from the inherent quality of the environment.

The Heritage Statement supporting this application identifies that the single non-designated heritage asset (cropmarks of curvilinear ditches NHER 26832) identified on the Phase 1 site does extend into the Phase 2 development. It is envisaged that any effects that the proposed development may have on these features can be mitigated by a programme of archaeological works. It is considered such works could be appropriately conditioned as part of any planning permission.

Following further consideration of the historic environment implications of the proposed development and additional discussions with the applicant's agent the Historic Environment Service raises no objection to the proposed development subject to a programme of archaeological work in accordance with National Planning Policy Framework para. 141 and the provisions of Policy CS12 of the adopted Core Strategy.

### **Trees**

The Arboricultural Impact Assessment (AIA) identifies two individual trees, two groups and three hedgerows that will need to be removed to accommodate the proposed development layout. Additionally one section of poor form and low quality hedge trees should be removed due to poor physiological condition.

The AIA states that provided precautions to protect the identified trees are specified and implemented through the measures included in this report, the development proposal will have little impact on the retained trees or their wider contribution to amenity and character.

### **Utilities**

This Utilities Statement supporting this application identifies the existing utility and service infrastructure within the vicinity of the development site and outlines the broad constraints and opportunities for future domestic connections. The Statement concludes that the proposed development should be capable of connecting to required domestic utilities and services.

Anglian Water confirms the foul drainage from this development is in the catchment of Heacham Water Recycling Centre that will have available capacity for these flows and the sewerage system at present has available capacity for these flows.

### **Other material considerations**

Norfolk County Council has commented with regard to county contributions towards library books, education and fire hydrants. However, CIL is now being collected and there is no requirement for county contributions.

Third party comments have been made regarding the impact of the proposal on the village infrastructure, including schools and doctors, which it is stated are both at full capacity. However, this would have been addressed through the LDF process and in any case is not a reason for the refusal of the application.

The Borough Council and Parish Council concerns regarding impact on the countryside and comparisons with the School Road appeal site area noted. However, the School Road site was outside the settlement boundary and a more exposed site. By comparison this site is more contained and surrounded by development on three sides. Further, the visual impact upon the wider countryside has already been assessed through the local plan process and site allocation exercise.



Should planning permission be forthcoming this will be subject to the signing of a S106 legal agreement to cover affordable housing, open space and play facilities, HRA mitigation payment, and Suds maintenance.

## **CONCLUSION**

As part of the review of settlement boundaries through the LDF process this site is listed as one of two sites allocated for residential development for the village of Heacham. Adopted Policy G47.1 relates to the 6.0 hectare site to provide at least 60 dwellings.

The application seeks outline planning permission for the redevelopment of land off Cheney Hill to provide 64 dwellings, open space and associated infrastructure. The application also includes vehicular access to the site from the existing public highway off Cheney Hill.

This application site relates to 2.96 hectares of the 6.0 hectare site referred to under draft Policy G47.1. Clearly the number of dwellings for the part of this site is in excess of the figure given for the whole site in the allocation policy. Indeed combining the number of units on the approved scheme (69) with that now proposed would result in a total of 133 units which is more than double referred to in the policy. That said the density of development set out in draft Policy G47.1 is extremely low, averaging just 10 dwellings per hectare. By comparison existing surrounding development is of significantly higher density, between approximately 39.6 dph at Benstead Close to 21 dph at Marea Meadows. Development at this density would be in keeping with surrounding development and uphold policy requirements for good design which promotes local distinctiveness.

Additionally the allocation numbers are minimum numbers, with the policy referring to 'at least 60'. It is considered that the whole site can accommodate 133 dwellings without material harm to the visual amenity of the locality, highway safety or neighbour amenity. The supporting technical reports demonstrate that any impacts of the development can be satisfactorily mitigated.

The wording of the policy and lack of planning harm, taken with the sustainability of the settlement of Heacham are given significant weight by officers, and are considered to overcome issues raised about too many dwellings across this allocated site, and in Heacham as a whole.

Actual numbers that can be achieved will be determined at reserved matters stage taking into account relevant constraints and policy, although a condition is proposed restricting the numbers on the site to no more than 64.

The applicant's Planning Statement concludes that there are clear benefits that will result from the proposal and officers agree with these conclusions. These are as follows:

- Delivery of development which is in full compliance with the adopted Core Strategy and emerging Policy G47.1 in the Site Allocations and Development Management Policies;
- Delivery of sustainable development in accordance with the NPPF;
- Provision of housing to assist the LPA in securing a robust five year housing land supply;
- The recommended mitigation measures outlined in the Habitats Regulations Assessment, Extended Phase 1 Habitats Survey and supporting Species Surveys can deliver on-site ecological benefits and enhance and protect biodiversity at the nearby Special Protection Areas; and

- The proposals are not considered to change the character of the AONB or wider contextual landscape. No AONB or other protected land is lost as a result of the proposal and there are minimal opportunities for views to the site from the AONB.

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 and G47.1 of the Site Allocations and Development Management Policies Plan 2016.

## **RECOMMENDATION:**

**APPROVE** subject to the imposition of the following condition(s):

- 1 Condition Approval of the details of the layout, scale, appearance and landscaping of the site (hereinafter called 'the reserved matters') for any phase of the development 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 (for any phase of the development) 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 two 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 one year 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 No development shall commence 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 in consultation with the Highway 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).
- 5 Reason To ensure satisfactory development of the site and to ensure estate roads are managed and maintained thereafter to a suitable and safe standard.

- 6 Condition No works shall commence on the site until such time as detailed plans of the roads, footways, foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. All construction works shall be carried out in accordance with the approved plans.
- 6 Reason To ensure satisfactory development of the site and a satisfactory standard of highway design and construction.
- 7 Condition No works shall be carried out on roads, footways, foul and surface water sewers otherwise than in accordance with the specifications of the Local Planning Authority in consultation with the Highway Authority.
- 7 Reason To ensure satisfactory development of the site and to ensure estate roads are constructed to a standard suitable for adoption as public highway.
- 8 Condition Before any dwelling is first occupied the road(s) and footway(s) shall be constructed to binder course surfacing level from the dwelling to the adjoining County road in accordance with the details to be approved in writing by the Local Planning Authority in consultation with the Highway Authority.
- 8 Reason To ensure satisfactory development of the site.
- 9 Condition Prior to the first occupation of the development hereby permitted a visibility splay measuring 2.4m x 43m shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriageway.
- 9 Reason In the interests of highway safety.
- 10 Condition Prior to the commencement of any works on site a Construction Traffic Management Plan, to incorporate details of on-site parking for construction workers, access arrangements for delivery vehicles and temporary wheel washing facilities for the duration of the construction period shall be submitted to and approved in writing with the Local Planning Authority in consultation with Norfolk County Council Highway Authority.
- 10 Reason In the interests of maintaining highway efficiency and safety.
- 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 unless otherwise approved in writing with the Local Planning Authority in consultation with the Highway Authority.
- 11 Reason In the interests of maintaining highway efficiency and safety.
- 12 Condition Notwithstanding the details indicated on the submitted drawings no works shall commence on site until a detailed scheme for the off-site highway improvement works as indicated on drawing numbers 1603- 50-PL07(C), 1603-50-PL04(B), 1603-50-PL05(B), 1603-50-PL06(B) & 1603-50-PL08(B) have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority.

- 12 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.
- 13 Condition Prior to the first occupation of the development hereby permitted the off-site highway improvement works referred to in Condition 12 shall be completed to the written satisfaction of the Local Planning Authority in consultation with the Highway Authority.
- 13 Reason To ensure that the highway network is adequate to cater for the development proposed.
- 14 Condition No development shall commence until full details of the foul 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.
- 14 Reason To ensure that there is a satisfactory means of drainage in accordance with the NPPF.
- 15 Condition Prior to the first occupation of the development hereby approved, a detailed outdoor lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the type of lights, the orientation/angle of the luminaries, the spacing and height of the lighting columns, the extent/levels of illumination over the site and on adjacent land and the measures to contain light within the curtilage of the site. The scheme shall be implemented in accordance with approved scheme and thereafter maintained and retained as agreed.
- 15 Reason In the interests of minimising light pollution, to minimise impact on wildlife and to safeguard the amenities of the locality in accordance with the NPPF.
- 16 Condition No development shall commence on site until a scheme has been submitted to and approved in writing by the Local Planning Authority that provides for the suppression of dust during the period of construction. The scheme shall be implemented as approved during the period of construction unless otherwise agreed in writing by the Local Planning Authority.
- 16 Reason In the interests of the amenities of the locality in accordance with the NPPF.
- 17 Condition Prior to commencement of development a detailed construction management plan, must be submitted to and approved by the Local Planning Authority; this must include proposed timescales and hours of construction phase. The scheme 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 as approved.
- 17 Reason To ensure that the amenities of future occupants are safeguarded in accordance with the NPPF.
- 18 Condition A) No development (other than demolition of the existing structure to ground-level only) shall take place until an archaeological written scheme of investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and 1) The programme and methodology of site investigation and recording, 2) The programme for post investigation assessment, 3) Provision to be made for analysis of the site

investigation and recording, 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation, 5) Provision to be made for archive deposition of the analysis and records of the site investigation and 6) Nomination of a competent person or persons/organization to undertake the works set out within the written scheme of investigation, and,

**B)** No development shall take place other than in accordance with the written scheme of investigation approved under condition (A), and,

**C)** 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 archaeological written scheme of investigation approved under condition (A) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

- 18 Reason To safeguard archaeological interests in accordance with the principles of the NPPF.
- 19 Condition Prior to the first use or occupation of the development hereby approved, full details of both hard and soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include finished levels or contours, hard surface materials, refuse or other storage units, street furniture, structures and other minor artefacts. Soft landscape works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment) schedules of plants noting species, plant sizes and proposed numbers and densities where appropriate.
- 19 Reason To ensure that the development is properly landscaped in the interests of the visual amenities of the locality in accordance with the NPPF.
- 20 Condition All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation or use of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority. Any trees or plants that 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 as those originally planted, unless the Local Planning Authority gives written approval to any variation.
- 20 Reason To ensure that the work is carried out within a reasonable period in accordance with the NPPF.
- 21 Condition No existing trees, shrubs or hedges within the site that are shown as being retained on the approved plans shall be felled, uprooted, willfully damaged or destroyed, cut back in any way or removed without the prior written approval of the Local Planning Authority. Any trees, shrubs or hedges removed without such approval or that die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of a similar size and species in the next available planting season, unless the Local Planning Authority gives written approval to any variation.
- 21 Reason To ensure that the development is compatible with the amenities of the locality and to minimise the impact of the development upon protected species in accordance with the NPPF.

- 22 Condition The development shall not be brought into use until a scheme for the provision of a fire hydrant has been implemented in accordance with a scheme that has previously been submitted to and approved in writing by the Local Planning Authority.
- 22 Reason In order to ensure that water supplies are available in the event of an emergency in accordance with the NPPF.
- 23 Condition A landscape management plan including long-term design objectives, management responsibilities, management and maintenance schedules for all landscape areas and swales, (other than small privately owned, domestic gardens), shall be submitted to and approved by the Local Planning Authority prior to the occupation of any part of the buildings or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved and retain in perpetuity.
- 23 Reason To ensure that the landscaping is properly maintained in accordance with the NPPF.
- 24 Condition Notwithstanding details contained within other conditions attached to this planning permission or unless otherwise agreed in writing by the Local Planning Authority prior to commencement of development no removal of hedgerow, trees or scrub shall be undertaken during the nesting bird season (March-August inclusive). If any construction works are to be undertaken within the breeding bird season a nesting bird check shall be undertaken by an ecologist immediately prior (within 24hrs) to removal of suitable nesting habitat.
- 24 Reason To ensure that the development takes place substantially in accordance with the principles and parameters contained with the Extended Phase 1 Habitat Survey.
- 25 Condition Prior to the construction of any physical works a badger walkover survey shall be undertaken by an ecologist to ensure no setts have been dug since the 2016 survey. In the event that badgers are found they should be protected as set out in the Extended Phase 1 Habitat Survey.
- 25 Reason To ensure that the development takes place substantially in accordance with the principles and parameters contained with the Extended Phase 1 Habitat Survey.
- 26 Condition Prior to the commencement of groundworks, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
- (i) a survey of the extent, scale and nature of contamination;
  - (ii) an assessment of the potential risks to:
    - \* human health,
    - \* property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - \* adjoining land,

- \* groundwaters and surface waters,
- \* ecological systems,
- \* archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

- 26 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 27 Condition Prior to the commencement of groundworks, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 27 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 28 Condition The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of groundworks, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

- 28 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 29 Condition In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 27, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 28, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 29.

- 29 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 30 Condition Prior to the commencement of the development hereby approved, a survey specifying the location and nature of asbestos containing materials and an action plan detailing treatment or safe removal and disposal of asbestos containing materials shall be submitted to and approved by the local planning authority. The details in the approved action plan shall be fully implemented and evidence shall be kept and made available for inspection at the local planning authority's request.
- 30 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of land after remediation.
- 31 Condition Prior to first occupation of the development hereby approved evidence of the treatment or safe removal and disposal of the asbestos containing materials at a suitably licensed waste disposal site shall be submitted to and approved by the local planning authority.
- 31 Reason To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, and to ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of land after remediation.
- 32 Condition Prior to the approval of any reserved matters application, a new surface water drainage scheme incorporating the following measures designed specifically for the area within the red line of this development (application 16/01385/OM) shall be submitted to and agreed with the Local Planning Authority in consultation with the Lead Local Flood Authority. The approved scheme will be implemented prior to the first occupation of the development. The scheme shall address the following matters:
- I. Detailed infiltration testing in accordance with BRE Digest 365 along the length of the proposed attenuation storage.
  - II. Provision of surface water attenuation storage, sized and designed to accommodate the volume of water generated in all rainfall events up to and including the critical storm duration for the 1 in 100 year return period, including allowances for climate change, flood event.
  - III. Detailed designs, modelling calculations and plans of the of the drainage conveyance network in the: \* 1 in 30 year critical rainfall event to show no above ground flooding on any part of the site.
- \* 1 in 100 year critical rainfall plus climate change event to show, if any, the depth, volume and storage location of any above ground flooding from the drainage network ensuring that flooding does not occur in any part of a building or any utility



plant susceptible to water (e.g. pumping station or electricity substation) within the development.

- IV. The design of the attenuation basin will incorporate an emergency spillway and any drainage structures include appropriate freeboard allowances. Plans to be submitted showing the routes for the management of exceedance surface water flow routes that minimise the risk to people and property during rainfall events in excess of 1 in 100 year return period. This will include surface water which may enter the site from elsewhere.
  - V. Revised FRA noting the risk of surface water flooding within the site boundary and stating how this risk will be mitigated. Ideally properties will be located outside of the areas of risk, as avoidance is always the best approach to mitigating flood risk. Finished ground floor levels of properties are a minimum of 300mm above expected flood levels of all sources of flooding.
  - VI. Details of how all surface water management features to be designed in accordance with The SuDS Manual (CIRIA C697, 2007), or the updated The SuDS Manual (CIRIA C753, 2015), including appropriate treatment stages for water quality prior to discharge.
  - VII. A maintenance and management plan detailing the activities required and details of who will adopt and maintain the all the surface water drainage features for the lifetime of the development.
- 32 Reason To prevent flooding in accordance with National Planning Policy Framework paragraph 103 and 109 by ensuring the satisfactory management of local sources of flooding surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the surface water drainage system operates as designed for the lifetime of the development.
- 33 Condition The development shall comprise of no more than 64 residential units.
- 33 Reason To define the terms of the consent.



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## Appeal Decision

Inquiry held on 17-24 May 2016

Accompanied site visit made on 19 May 2016

by **David Spencer BA(Hons) DipTP MRTPI**

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

Decision date: 14 July 2016

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**Appeal Ref: APP/V2635/W/14/2221650**

**Land off School Road, Heacham, Norfolk.**

- 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 Andrew Savage on behalf of Broadland Housing Association and Townsfolk Ltd against the decision of the Borough Council of King's Lynn and West Norfolk.
  - The application Ref 13/01541/OM, dated 19 October 2013, was refused by notice dated 5 February 2014.
  - The development proposed is the construction of a care home, housing with care facilities and 70 new homes. New allotments, associated landscaping, SUDS ponds and associated works including an electricity substation and a pumping station are also proposed. Access to be off School Road.
  - This decision supersedes that issued on 27 February 2015. That decision on the appeal was quashed by order of the High Court.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. In addition to the accompanied site visit, I also made two unaccompanied site visits, the first on 16 May 2016 to visit School Road and all of the publically accessible viewpoints contained in the appellants landscape evidence and the second on the afternoon [14:30–15:30] of 26 May 2016 to observe highway conditions at the junction of School Road, Lords Lane and The Broadway.
3. The application was submitted in outline with all matters reserved except for access. As such detailed matters of layout, scale, appearance and landscaping are not before me. However, the appellant has submitted an indicative site layout plan<sup>1</sup> and various illustrative materials relating to such matters as a landscaping. For the avoidance of doubt and based on the evidence before me including that presented at the Inquiry I have determined the appeal proposal as being for 70 new dwellings (Class C3), 60 'housing with care' units which could be independently occupied by over 55's with care needs (to purchase or rent) within a complex which provides communal and care facilities (Class C3) and a 60 bed care home with an emphasis on high dependency dementia care (Class C2)<sup>2</sup>.

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<sup>1</sup> Drawing 110 Rev A02

<sup>2</sup> All references to Class are from the Town and Country Planning (Use Classes) Order 1987 (as amended)

4. Planning obligations were submitted at the inquiry in the form of a draft Section 106 agreement (S106) and a draft Unilateral Undertaking (UU). A signed and executed S106 was submitted after the inquiry had closed, covering affordable housing, open space, protected habitat mitigation and contributions towards education and library provision. These proposed contributions would need to be assessed against the statutory tests set out in the Community Infrastructure Levy (CIL) Regulations 2010.
5. A signed and dated statement of common of ground (SOCG) was presented at the start of the Inquiry<sup>3</sup> which establishes that all the main issues remain to be determined afresh in this decision. However, following the submission of viability rebuttal evidence<sup>4</sup> from the Local Planning Authority (LPA) a subsequent SOCG<sup>5</sup> was submitted and the housing mix of the appeal proposal amended to address the LPA's concerns. I do not consider the change in the housing mix fundamentally alters the scheme such that anyone would be prejudiced by me determining the proposal on this revised basis. Additionally, whilst the subsequent SOCG confirms that there is a need for the type of specialist elderly accommodation proposed, the scale of that need and how it could be addressed remain in dispute.
6. The availability of up-to-date housing data in a transparent format was a particular issue for the Inquiry reflecting the following: (a) no published local annual monitoring report for the period December 2014 – April 2016; (b) evidence of the LPA's assertion that it had a five year housing land supply being first presented in its proofs of evidence and appendices (April 2016); and (c) evidence being clarified and presented during the Inquiry forum.
7. Consequently, both parties submitted iterative material both during and after the close of the Inquiry on aspects of the housing land supply. On the matter of lapse rates, material was submitted after the Inquiry<sup>6</sup> with the primary purpose to check the appellant's assessment of the data provided by the LPA. However, it is clear from the LPA's final submission of 27 May 2016 that there is now reference to another (new) set of figures. I agree with the appellant that it is unjust that within a week of having provided the appellant with one dataset on which to assess lapse rates, another has been referred to. Accordingly, I have not taken the LPA's latest dataset and lapse rate calculations into consideration in determining this appeal.

### **Main Issues**

8. The main issues in this appeal are as follows:
  - 1) Whether or not the LPA can demonstrate a five year supply of deliverable housing sites;
  - 2) The effect of the proposal on the character and appearance of the area; and
  - 3) The need for specialist elderly accommodation.

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<sup>3</sup> Document 8

<sup>4</sup> Document 3

<sup>5</sup> Document 14

<sup>6</sup> Documents 43 and 44.

## Reasons

### *Location and Planning Policy*

9. The site is located on the edge of Heacham a large village with a range of services and facilities. Heacham is identified in the 2011 Core Strategy<sup>7</sup> as a key rural service centre. It is situated a few miles south of the main town of Hunstanton. These communities are connected by the main A149 coast road which largely passes to the east of Heacham. The road generally forms the boundary between a coastal landscape and the gentle escarpment at the edge of the Norfolk Coast Area of Outstanding Natural Beauty (AONB). The appeal site lies outside of the defined 'built environment' for Heacham. The eastern edge of the site adjoins the AONB along its boundary with the A149 road.
10. The development plan for the area comprises of the 2011 Core Strategy and those saved policies of the 1998 Local Plan<sup>8</sup>. With regard to the location and scale of the appeal proposal it is clear that the spatial vision in the Core Strategy in articulating a 'vision for places' refers to an appropriate scale of development in key rural service centres and generally only modest scales of new development in rural areas. In order to secure sustainable patterns of development to deliver the vision the Core Strategy at Policy CS01 states that at least 2,880 new homes will be delivered at key rural service centres.
11. Policy CS02 identifies Heacham as one of 20 key rural service centres for limited growth of a scale and nature appropriate to secure the sustainability of each settlement. The distribution of housing is further considered in Policies CS06 and CS09 which state that the minimum of 2,880 new homes for key rural service centres will comprise of allocations for 660 new homes. The detail of this is being determined through the current preparation of the Site Allocations and Development Management Policies (SADMP) document<sup>9</sup>.
12. Land allocations for at least 66 dwellings in Heacham are contained in the SADMP on 2 sites. Planning permission has been granted on site G47.1 for 69 units in addition to a windfall supply of 19 dwellings. Heacham, as one of the largest key rural service centres, is to accommodate approximately double the average allocation if the 660 total was spread evenly across all key rural service centres<sup>10</sup>. I consider the LPA's explanation<sup>11</sup> of this proportional approach to appropriately explain Heacham's higher housing figure.
13. Additionally Core Strategy Policy CS09 requires housing proposals to take account of the need identified in the latest Strategic Housing Market Assessment (SHMA) (including the needs of elderly people and the disabled) and a target of 20% affordable housing on qualifying sites subject to dynamic viability testing. Core Strategy Policies CS01 and CS12 also seek to protect the locally distinctive countryside in the Borough for its many attributes including, amongst other things, landscape setting.

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<sup>7</sup> King's Lynn & West Norfolk Borough Council Local Development Framework – Core Strategy Adopted July 2011

<sup>8</sup> King's Lynn & West Norfolk Local Plan Adopted November 1998

<sup>9</sup> King's Lynn & West Norfolk Site Allocations and Development Management Policies Pre-Submission Document 2015. Submitted for Examination 23 April 2015. Proposed Modification Consultations 2016

<sup>10</sup> SADMP with post hearing main modifications, Paragraph D.0.13, Appendix 8, Mr Parkin PoE

<sup>11</sup> Document 12

14. Local Plan Policy 8/1 also applies in that it informs the adopted Policies Map and allows for individual and small groups of dwellings in settled or built-up areas of villages. By virtue of being in the countryside outside of these areas the appeal proposal is also in conflict with the Local Plan policy.
15. Both development plan documents pre-date the National Planning Policy Framework (NPPF) and as such paragraph 215 of the NPPF requires a judgment to be made on their consistency with the NPPF to inform the weight to be given to them. In my view the policies from the LPA's decision in their various forms seek to deliver housing growth whilst also reconciling the competing aims of supporting the vitality of rural communities and conserving the environmental resource of the countryside. The policies are therefore consistent with the balanced approach to sustainable development encapsulated in the NPPF.
16. Additionally, the LPA is making good progress on its Site Allocations and Development Management Policies document (the SADMP) which seeks, amongst other things, to allocate sites to contribute towards delivery of the Core Strategy. Additionally, Policy DM2 reaffirms the principle of settlement boundaries and seeks to restrict development in the countryside outside of these boundaries. The SADMP is in the latter stages of its examination, with hearings having been held and main modifications being consulted on. Therefore, having regard to paragraph 216 in Annex 1 of the NPPF, as a starting point, I give significant weight to relevant policies in the SADMP.
17. The NPPF at paragraph 47 seeks to ensure that the supply of housing is boosted significantly, and requires local planning authorities to identify a deliverable supply of sites sufficient to provide 5 years' worth of housing to meet the objectively assessed need. If the authority cannot do so then policies for the supply of housing should not be considered to be up to date. I consider that all of the policies set out above, on which the LPA relies, are relevant to the supply of housing<sup>12</sup>.
18. On this point I note that an earlier appeal decision at Clenchwarton found that there was not a five year housing land supply in the Borough<sup>13</sup>. It is clear from the evidence before me that the Clenchwarton decision has influenced how subsequent housing proposals have been assessed. However, 16 months have now passed since that decision during which time circumstances have materially changed. Consequently, with the appeal before me I am required to take stock and test whether, cumulatively, events in the intervening period have substantively changed the housing land supply landscape.

#### *Five Year Housing Land Supply*

##### *Requirement*

19. The Core Strategy housing requirement is expressed as a minimum of 660 dwellings per annum over the plan period. The figure is based from the now revoked Regional Spatial Strategy for the East of England (the RSS). I note this housing requirement includes an element of 'uplift' (10%) and is not that far adrift from recent outputs on housing need<sup>14</sup>. Nonetheless the NPPF seeks a

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<sup>12</sup> With reference (principally paragraphs 33 and 47) to Document 41

<sup>13</sup> APP/V2635/A/14/2219315 – Issued 20 January 2015

<sup>14</sup> SHMA 2014 and NMSS Report 2015

housing requirement that is grounded in evidence of the full objectively assessed need (FOAN)<sup>15</sup>, as has been adjudicated elsewhere<sup>16</sup>.

20. In contrast to the Clenchwarton appeal the LPA is now in receipt of evidence of the FOAN which is expressed as a range of 680-710 dwellings per annum. It was confirmed to me that the FOAN takes the demographic baseline from the 2014 household projections and has applied a Planning Practice Guidance<sup>17</sup> (PPG) compliant methodology in terms of adjustments for economic growth and affordability. As such the LPA's up-to-date FOAN appears to be robust in terms of identifying the unfulfilled need.
21. The LPA submitted that there was no certainty that the FOAN would be not need to be constrained downwards when the matter is tested as part of an imminent Local Plan review. However, the difference between the Core Strategy and FOAN is 50 dwellings per annum (7.5% of the Core Strategy requirement). In my view this can reasonably be described as marginal. Notwithstanding matters of protected habitats, flood risk and agricultural land quality, it was put to me that the Borough has the 12<sup>th</sup> largest land area in England. I therefore share the appellant's view that there is very little compelling evidence at this stage to demonstrate that the marginal uplift represented by the FOAN would need to be appreciably constrained. In any event I do not consider it appropriate for a Section 78 appeal to undertake the more rounded assessment similar to a Local Plan process to arrive at a constrained housing requirement figure.
22. I am mindful of the PPG<sup>18</sup> and ministerial advice<sup>19</sup> on the weight to be given to emerging assessments of need particularly where they have not been moderated against relevant constraints. However, the Council's Cabinet has endorsed the FOAN, which represents a degree of scrutiny (and acceptance of the FOAN to feed into the imminent Local Plan review). Taking the specific local circumstances before me the 2011 Core Strategy requirement stems from the now dated and constrained<sup>20</sup> RSS. It is not based on an up-to-date consideration of the FOAN. Accordingly, I consider the FOAN of 710 dwellings per annum to be the more robust basis when considering the housing requirement for the purposes of assessing the five year supply.
23. I am satisfied that the methodology of the FOAN takes account of any housing backlog up to the point of its base date. Accordingly, in considering the shortfall, a backlog of 825 dwellings has accrued against the FOAN requirement since the 2013/14 monitoring year<sup>21</sup>. There is no disagreement that any shortfall should be addressed within the five year period (the *Sedgefield* method) which would result in a requirement of 4,375 dwellings.
24. To secure the NPPF objective of 'delivering a wide choice of high quality homes' an additional buffer should be added to the requirement to ensure choice and competition. The LPA considers its performance should be assessed against an aggregated measure which shows that it has delivered 90% of its development plan requirement over a 15 year period thus smoothing out the boom and

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<sup>15</sup> NPPF, paragraph 47, in particular the first bullet point.

<sup>16</sup> *Notaby City & District Council of St Albans v. R (oao) Hunston Properties Ltd & SSCLG [2013] EWCA Civ 1610*

<sup>17</sup> Planning Practice Guidance Section on Housing & Economic Development Needs Assessment including, notably, Paragraph: 2a-015-2040306

<sup>18</sup> Planning Practice Guidance Paragraphs:3-030-20140306 & 3-045-20141006

<sup>19</sup> Ministerial Letter to PINS dated 19 December 2014

<sup>20</sup> Evidence at Paragraph 4.6 of Mr Thompson's PoE on the deflation of RSS housing targets

<sup>21</sup> Table 5, p15 Mr Jermany Proof of Evidence

recessionary periods. The LPA has submitted an appeal decision from 2014<sup>22</sup> to support its cumulative approach. However, that is only one decision and relates to an area of significant growth with seemingly few direct parallels to the circumstances in the Borough. Accordingly, I attach little weight to it.

25. In contrast, an annualised approach to performance reveals that delivery has not met the development plan requirement in any of the last 8 years. Matters do not improve when considering recent performance against the emerging FOAN. There are numerous appeal decisions before me which have applied the annualised approach advocated by the appellant. I share their broad conclusions in finding that 8 years is an appropriately robust period of time<sup>23</sup> to gauge performance. Accordingly, I find that there has been a record of persistent under delivery and as such a 20% buffer should be applied, thus raising the requirement to 5,250 dwellings.

### *Supply*

26. Since the Clenchwarton appeal decision the LPA cannot be regarded as having been complacent in its efforts to boost housing supply. This has included notable progress on the housing site allocations in the SADMP. Additionally, the LPA, in the face of appreciable local concern, has actively encouraged housing developments in sustainable locations (including sites considered as part of the SADMP process) and has proactively deployed resources to deal with the resultant spike in planning applications.
27. The activities of the LPA mean that the starting point for the housing supply as of April 2016 includes 1,877 units on sites with planning permission and 627 units on sites with a resolution to grant permission subject to planning obligations being signed off. I deal with lapse rates below but, in principle, I am not persuaded these two components of supply should be adjusted downwards in terms of deliverability having regard to the evidence before me in the LPA's trajectory and the relevant tests in the NPPF<sup>24</sup> and PPG<sup>25</sup>.
28. Given the geographical size of the Borough, the range of settlements, the potential sources of sites and past trends, it is appropriate that an allowance should be made for delivery on windfall sites in years 4 and 5 of the trajectory. Such an approach would reasonably avoid double-counting and I consider the LPA's discount to windfall supply to reasonably reflect that past rates are likely to reduce over time. Contrary to the Clenchwarton decision I consider that there is compelling evidence before me to make an allowance for large windfall sites (>10 dwellings) given that not all of the planned growth will be delivered through site allocations with windfall continuing to be a notable source of supply within development boundaries (especially within the towns).
29. Whilst I note the appellant's concerns that recent efforts to significantly boost supply may in effect be bringing future windfall forward (and thus introducing an element of double-counting) I am not persuaded, given the diversity and choice of windfall sources, that this strand of supply should be unrealistically discounted further or precluded altogether. Accordingly, I consider the LPA's total windfall allowance of 476 dwellings to be robust and should be included in the forthcoming five years of housing supply.

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<sup>22</sup> Document 19

<sup>23</sup> With reference to Planning Practice Guidance paragraph: 3-035-20140306

<sup>24</sup> NPPF, paragraph 47, footnote 11

<sup>25</sup> Planning Practice Guidance Paragraphs: 029 & 031 Reference IDs: 3-029/031-20140306

30. A substantial element of the LPA's housing supply is credited to emerging allocations in the SADMP with an estimated yield of 3,427 dwellings in the next five years. From the evidence before me it is apparent that the plan has undergone rigorous scrutiny since its submission in April 2015. The plan is in its very final stages following an examining Inspector having firstly, examined the plan against the tests of soundness (including being justified and effective (deliverable)) and secondly having sanctioned consultation on main modifications which ends shortly.
31. Consequently, I consider the LPA is justified in making an allowance for a contribution from emerging plan allocations. In arriving at this view I have taken into account the quality of the Council's evidence base including its testing within its trajectory and the very late stage of progress that the emerging SADMP has reached<sup>26</sup>. I appreciate there are still some outstanding objections to the plan but there is little before me to persuade me that the 3,427 figure, including allowances at the West Winch Growth Area, would be significantly at risk.
32. Generally, the appellant does not seek to test the individual deliverability of permitted or allocated sites but applies a number of discounting scenarios. I understand the genesis of this discounted approach to stem in part from the Clenchwarton decision where in response to concerns about the five year housing land supply calculations and "in the absence of any justified alternatives" an additional 10% discount was applied by the Inspector in that decision.
33. From the evidence before me the appellant has looked at four principal discounting scenarios largely predicated on the difference between forecast delivery and actual delivery. I note from the appellant's submissions that the differences are significant. However there are three fundamental points which lead me to have serious reservations about the appellant's general approach.
34. Firstly, events have moved on considerably since the Clenchwarton decision. The LPA has enhanced the inputs into its trajectory, notably the engagement with developers, site owners and applicants. I understand the appellant's point regarding the veracity of responses elicited by the LPA but there is no criticism of the questionnaire used by the LPA. The LPA has also candidly explained that some of the responses it received were not as positive as it had hoped. I find little to fault in the LPA also applying its own knowledge of market conditions to gauge the realism of the intelligence it was gathering. In summary, I am satisfied that the LPA has proactively tested site deliverability such that its forecasts in its trajectory are reliable.
35. Secondly, and specifically in respect of development plan allocations, I find significant credence to the LPA's submission that comparing forecast delivery against 1998 Local Plan allocations would not appropriately reflect that these allocations were not the subject of the more stringent NPPF soundness tests including deliverability. Nor does the appellant's approach properly reflect that the 1998 Local Plan only allocated a handful of larger sites whereas the SADMP contains a diversity of allocations of different scales across a wide spread of settlements. Accordingly, I am not persuaded that sites allocated in the SADMP should be discounted on the basis that there is a prevailing 'optimism

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<sup>26</sup> The tests expressed at paragraph 35 of *Wainhomes v. SSCLG* [2013] EWHC 597, provided as Document A11.31 by Mr Thompson.



bias' which should be tempered by looking back rather than examining the what is realistically happening and likely to happen.

36. In this regard I note the appellant's submissions in respect of a recent appeal decision in Dartford<sup>27</sup> in relation to forecasting but I find it has almost no parallels to the circumstances before me. In particular there is little to suggest in the Dartford decision that the LPA in that case had undertaken the actions which I have outlined at paragraph 26. Accordingly, I am not persuaded that the Dartford decision is particularly applicable to the circumstances before me.
37. In support of the Council's trajectory, I note that a number of SADMP allocations have either been granted planning permission or are in the process of obtaining permission. Additionally, the allocations in the SADMP are expressed as minima and it is not inconceivable that some allocated sites will yield more than envisaged in the plan. This is evidenced more generally in the LPA's response to the SADMP Inspector on this matter and is exemplified locally in Heacham on the main allocation at site G47.1 (where the total allocated capacity has been permitted on approximately half the allocated site area). Accordingly, I consider the LPA's assessment on the scale of supply from the SADMP allocations is not over-inflated.
38. Thirdly, I can find little justification in either national policy or guidance or in the case law before me that endorses the principle of applying further general discounts to housing supply along the methodological lines put forward by the appellant, particularly where LPA's housing trajectories are informed by sound local intelligence. In coming to this view I have also considered the two scenarios advocated by the appellant that would be the consequence of applying the suggested discount scenarios: (1) over-allocate in the SADMP or (2) apply a % discount and review and manage on an annual basis. Both approaches, in my view, run counter to the government's promotion of an informed and realistic approach to plan-making and the primacy of a development plan led system to widen housing choice and manage delivery.
39. Accordingly, I am not persuaded that there is a reasonable basis that the appellant's discount scenarios 1-4 should be applied to the extent which they are presented. In respect of the 3,427 dwellings anticipated from SADMP allocations I consider this to be a realistic figure informed by NPPF compliant plan preparation which is very nearly completed. Consequently, there is no sound justification for it to be discounted further.
40. The buffer for increasing choice and competition at paragraph 47 of the NPPF is not a substitute if there is a real and local likelihood that some of the permitted supply would lapse. I recognise that the LPA has undertaken work with developers to confirm timeframes for site delivery but there are a notable number of extant permissions including, but not limited to, a plethora of smaller sites (<10 units).
41. In this context I agree with the appellant that a lapse rate should be applied to extant permissions. Ideally, it should be based on local evidence on the rate at which permissions are converted into completions rather than as a proportion of the number of outstanding permissions. In this regard divergent figures are before me. As set out at paragraph 7 above I am drawn to the appellant's

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<sup>27</sup> APP/T2215/A/13/2195591

analysis undertaken during the Inquiry<sup>28</sup>, based on the most transparent dataset. It results in the appellant calculating a lapse rate of some 19-20%.

42. However, I have some difficulty with a lapse rate as high as 19-20% particularly given the work undertaken by the LPA to improve site deliverability information into its trajectory. Instinctively, the figure feels too high for what is a large and reasonably buoyant housing market area. It is starkly at odds with the LPA's alternative figures of 4.96%, 3.25% and 6.74%<sup>29</sup>.
43. I acknowledge the appellant's criticisms of these lower LPA figures but I am concerned that the appellant's higher figure may reflect issues with the quality of the dataset that was provided (which I accept is beyond the appellant's control). As such I am reluctant to rely on it. Accordingly and in my judgment a 10% lapse rate<sup>30</sup> would be a judicious middle ground figure until more reliable and transparent information on lapse rates becomes available. In applying this lapse rate to extant permissions, those permissions subject to planning obligations and the windfall allowance in years 4 and 5 I calculate there would be a deliverable supply of 6,109 dwellings equating to 5.81 years.

#### *Conclusion on Housing Land Supply*

44. In conclusion on this matter, the LPA can demonstrate a five year supply of deliverable housing land. Accordingly, relevant policies for the supply of housing in the Borough are considered up-to-date. Furthermore, because this policy framework is securing a deliverable supply against the slightly higher FOAN figure I find that the policies are fully consistent with the NPPF's objectives to widen housing choice and boost supply significantly. I therefore attach full weight to the development plan policies set out above. I turn, now, to consider the other main issues in the appeal.

#### *Character and Appearance*

45. The appeal site is within the Coastal Slopes landscape typology and specifically the Heacham sub-area (Landscape Type C1) as defined in the 2007 Borough-wide Landscape Character Assessment (LCA)<sup>31</sup>. This assessment defines the key characteristics of this landscape as including, amongst other things, its openness, gently sloping landforms and arable farming within a regular geometric field pattern defined by field boundaries. Heacham is the largest settlement in this landscape but beyond settlement edges the LCA identifies that occasional agricultural structures and vertical elements are characteristic. The coastal slopes are not assessed as being a remote landscape but nonetheless the LCA considers that there is a strong character providing a recognisable sense of place.
46. The LCA contains a number of landscape planning guidelines for the Heacham C1 sub-area including ensuring that any new small-scale development in or on the edge of Heacham responds to the existing settlement pattern and to seek to conserve and enhance the landscape setting of Heacham. In this regard the area containing the appeal site remains largely open characterised by parcels of permanent pasture. This verdant setting to Heacham can be appreciated

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<sup>28</sup> Documents 33 and 35

<sup>29</sup> Document 2, pages 4 and 5

<sup>30</sup> Originally applied in the appellant's scenarios 3 and 4 in Document 1; applied in the 2015 Clenchwarton appeal decision (paragraph 10); and in the referred to PAS guidance on Five Year Land Supply 2014.

<sup>31</sup> King's Lynn and West Norfolk Borough Landscape Assessment March 2007 by Chris Blandford Associates

when seen from the south and east including from the A149 coast road and adjoining pavement, the public bridleway south of School Road and the vantage point from the Parish Council's Millennium Wood.

47. As well as the patchwork of small to medium sized pasture fields there is also a scattering of agricultural and commercial buildings, masts, cables and occasional dwellings. I accept this provides a certain transitory quality to the character of the countryside at this edge to the village which is further influenced by existing and allocated housing developments at Heacham to the west and north and by the presence of the main A149 to the east, including lighting columns and roadside facilities.
48. Consequently, it is not a pristine landscape but a number of these features are characteristic of this landscape such that they do not significantly detract or conflict with the evaluation in the LCA. In any event there remains a predominant sense of a verdant openness as described above. I therefore find that the appeal site is an edge of village location firmly in the open countryside rather than having the "peri-urban character" which the appellants suggests.
49. The openness to the landscape can be experienced at the start of the public bridleway from School Road due to the large field to the east which forms the central part of the appeal site. Consequently, the tangible sense of 'departure' from the village into this quadrant of countryside would be harmfully lost. The appellants asserts that as a no-through route it is little used but I have no evidence to support this and overall I find the rural character of this bridleway including from the slight vantage point at its southern end to provide a generally attractive experience such that it provides considerable local amenity value.
50. I do not consider the overriding rural character of the appeal location to be significantly diminished by the presence of the moribund piggery buildings. Their scale, layout and appearance remain typical of rural buildings to be found in the countryside and they are unobtrusive. The appellants asserts that the appeal proposal would not introduce any incongruous new elements by regenerating this site. However, these low profile agricultural buildings do not visually detract from the identified landscape character. They are shown to be replaced by a notable quantum of residential development which would be of a scale uncharacteristic and visually intrusive in this landscape.
51. The same also applies to the range of larger buildings on the appeal site to the east of the bridleway. In my view none of these buildings are inconsistent with the LCA analysis of occasional agricultural buildings in the coastal slope landscape. I accept that the commercial units occupied by Norfolk Bespoke Construction & Joinery and the dwelling at 'The Cabin' begin, albeit on a small scale, to consolidate development south of the appeal site in the open countryside. I note that additional residential development permitted south of 'The Cabin' would add to this group. However, this small cluster of development is an exception to the overriding open, rural character and does not unbalance the dominant fringe spaciousness arising from the open fields.
52. In contrast, the scale and depth of the appeal proposal means there would be an evident and direct loss of openness and a harmful conglomeration with sporadic rural buildings. It would appear as poorly integrated extension and new edge to the settlement which would fail to relate well to the existing settlement pattern to this part of the village edge. I am also not persuaded

that the topography would significantly ameliorate the harmful impact given the appeal site generally lies between 8m and 11m AOD. Consequently I am satisfied that the projection of the appeal proposal into the countryside and loss of openness would be appreciated, to varying degrees, from the public bridleway, the A149 coast road, the Millennium Wood and from Cheney Crescent.

53. The appellant emphasises the strong hedgerow boundaries (including trees) and the potential to landscape a significant proportion of the appeal site as part of a layering effect to absorb the development into the landscape, similar to the verdant setting for housing along The Broadway to the north and north-east of the appeal site. This has been particularly considered in the appellant's analysis of progressive views along the A149<sup>32</sup>. I accept that in some conditions when traffic is moving quickly and there is foliage that the appeal proposal would not be prominent from this perspective. However, there will be other times when the lack of foliage would reduce the layered effect of the field boundaries. There would also be times when traffic is moving slowly as it enters the 40mph zone for Heacham or tailed back from the traffic lights at the nearby B1454 junction or from pedestrians using the footway along the A149. In these circumstances the extended settlement form of the appeal proposal and reduced verdant setting to Heacham would be more prominent than the appellant suggests.
54. With regards to the Millennium Wood site I accept that it is unlikely to be a principal destination for visitors to the AONB. However, it is a Parish Council site which is clearly marked as having public access and can safely be reached by foot within a reasonable walking distance of large parts of the village. It is a rare opportunity to access the escarpment and affords good views over the village to the Wash beyond. In my view, it is an attractive amenity destination for residents of the village and the appeal proposal would conspicuously result in the harmful loss of open countryside in foreground views of the village edge from this vantage point.
55. In considering visual impact I have had regard to the appellant's submissions about landscaping. Clearly this will take time to come to fruition such that even after a reasonable period of time, say 10 years, I am satisfied that the appeal proposal would still read in the landscape as a sizeable incursion in the countryside. Consequently, I consider landscaping would do little to reduce the harmful impact on the countryside character at this location.
56. The appellant asserts that the overall effect of the proposal on the character and appearance of the appeal location would be neutral, stemming in large part from a balancing of susceptibility of the large central open parts of the site and those parts of the site accommodating existing rural buildings. From my assessment above I consider the negative impacts, particularly from the loss of openness, have been understated by the appellant. Conversely the appellant's positive emphasis on the redevelopment of characteristic rural buildings with a more urbanised form of development is inflated such that the proposed redevelopment would also result in deterioration to the landscape resource.
57. The appellant submits that there would be a benefit in terms of the potential to create links through the appeal site to connect with adjoining countryside and developments. However, there is little evidence before me that any links

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<sup>32</sup> Mr Flatman PoE Section 6.3 and Figures 13 & 14.

beyond the appeal site are any more than "aspirational"<sup>33</sup> which significantly reduces the weight I can attach to this potential benefit.

58. I note the visual inter-relationship of the appeal site with the AONB is clearly of concern to both Natural England and AONB Coasts Project. However, the busy A149 coast road with its lighting columns and commercial activities along this part of the route provide a clear demarcation between the more open, rolling landscape of the AONB and the lower-lying fringe countryside containing the appeal site. I do not accept that the proximity of the appeal proposal to the AONB boundary would in itself be particularly harmful to the landscape character, amenity or setting of the AONB. That part of the appeal site that adjoins the AONB on its boundary with the busy A149 road is currently a sizeable parcel of land in rough pasture. This is proposed to remain open and would be a notable green buffer between the development and the AONB.
59. It was submitted at the Inquiry that the character of the settlement fringe of Heacham at the appeal location is subject to change with the proposed Lidl supermarket<sup>34</sup> on the garage site to the north-east of the appeal site. At the time of the Inquiry that scheme remained undetermined but it largely involves the redevelopment of a brownfield site containing a collection of large garage workshops and petrol filling station canopy. From the plans before me and from my site visits I find the proposed development would not fundamentally alter the rural character of the appeal location due to it being largely contained on a previously developed site.
60. The appellant also submits that the appeal proposal would be less harmful in landscape and visual amenity terms than the adjoining SADMP residential allocation at Cheney Hill which is largely a greenfield site and occupies slightly higher land. Development on the allocated site would be visible from the public bridleway and from the A149 and Millennium Wood. However, unlike the appeal site it is a pocket of land enclosed on several sides by residential development and it is not dissected by a public green lane. As such the development would largely result in infilling between existing residential development. Accordingly, the SADMP allocation does not represent a more harmful site in landscape terms and nor does it represent a precedent for the appeal proposal.
61. I therefore conclude that the appeal proposal would be appreciably harmful to the character and appearance of the countryside at this rural edge of Heacham due to the impact arising from the permanent loss of openness which is a key characteristic of the landscape setting in this part of Heacham. I am mindful that the appeal location is not a designated or valued landscape. However I conclude that the identified harm places the appeal proposal in conflict with the development plan at Core Strategy Policies CS01 and CS12. Additionally, the appeal proposal would fail to accord with the core planning principle at paragraph 17 of the NPPF to take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside. It would also be at odds with the requirement of the NPPF at paragraph 61 to ensure that new development is integrated into the natural environment.

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<sup>33</sup> MF in XX

<sup>34</sup> Submitted plans as Document 5

*The need for the proposed elderly accommodation*

62. There is no dispute between the parties that there is a need for both the housing with care and care home elements of the appeal scheme and that a need endures in the event that sites allocated for such uses in the SADMP at Hunstanton come forward. Nor is there disagreement that the proposed amount of market housing would be broadly justified as being that necessary to cross-subsidise the specialist housing for the elderly (including the proposed affordable accommodation) to make the appeal proposal viable<sup>35</sup>. Consequently the principal matter relates to the scale of need for specialist elderly accommodation in terms of being a supportive material consideration.
63. I consider the starting point in determining the need to be the Norfolk County 2008 Strategic Model of Care. It covers the period to 2020 and the need it identifies is predicated on there being a 40% increase in the population aged 65-84 and a 57% increase in population aged over 85<sup>36</sup>. For the Hunstanton sub-area (which includes Heacham) it identifies a need, amongst other things, for 98 'housing with care' units, 56 dementia care home with nursing units, 65 care home with nursing units and 70 dementia care home units.
64. The issue of need is also explored in the Strategic Housing Market Assessment 2014 (SHMA 2014) although its outputs in terms of need for elderly accommodation are less fine grained than the 2008 Model of Care. Nonetheless, it identifies a net need figure of 192 specialist homes<sup>37</sup> across the Borough between 2013 and 2028 of which 35.6% should be affordable. In addition to these datasets the appellant has undertaken a population based needs analysis but acknowledged that this approach broadly corroborated the levels of housing need identified.
65. I accept that the 2008 Model of Care work is now of some age and that the assessment is being updated, amongst other things, to reflect the influences of the recent Care Act 2014. However, I have very little compelling evidence that the 2008 model has considerably under-estimated the need or that it follows that an increase in aging population exponentially drives an increase in need for specialist accommodation. It seems to me from the evidence before me that the matter of housing need for the elderly is very complex.
66. This is partly reflected in relative wealth (equity) which results in a very high owner-occupation level in the over-65 age cohort in this part of the Borough<sup>38</sup>. The SHMA 2014 reveals a strong demand from elderly households to "remain in normal residential accommodation" (paragraph 9.43). This chimes with the strong themes in the Care Act 2014 to support a variety of care provision, not least adaptations and support services to facilitate independent living at home. There are also other factors such as the remodelling of existing care home provision<sup>39</sup> which also add to the complexities of housing need for the elderly.
67. None of this negates the need for additional specialist elderly accommodation but I am not persuaded that matters have significantly changed from the

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<sup>35</sup> Document 14

<sup>36</sup> Paragraph 1.1, Strategic Model of Care Report to Cabinet 13 October 2008 (Ms Patton PoE, Appendix E)

<sup>37</sup> Defined at paragraph 9.42 of the SHMA as housing with care, sheltered accommodation and supported accommodation.

<sup>38</sup> Document 4 – 83.7% of over 65 households owner-occupied in Heacham at 2011 Census

<sup>39</sup> Ms Patton's PoE

available data before me. I therefore do not share the appellant's assertion that there is a position in 2016 of significantly increasing or "chronic" unmet need.

68. In terms of meeting the need I note that very little provision has been made in the Borough since the 2008 Strategic Model of Care outputs. However, the situation now appears to be changing on two fronts. Firstly, schemes are coming forward through various planning applications<sup>40</sup>. I am keen to draw a distinction between retirement developments and housing with care but I am satisfied that some of this emerging provision falls within the latter category and will positively contribute towards meeting the identified need. This provision is occurring within the context of Policy CS09 of the Core Strategy.
69. Secondly, the SADMP makes specific provision for housing with care and a care home on proposed allocated sites F2.3 and F2.5 at nearby Hunstanton, a main town identified in the Core Strategy. I note the SADMP Inspector has specifically asked about the housing with care at Site F2.3 but there is nothing in his preliminary findings (February 2016) or the list of post hearing main modifications which leads me, at the time of this decision, to suspect that sites F2.3 and F2.5 are consequently at serious risk of de-allocation.
70. The modified allocation F2.3 is on a greenfield site and includes a notable element of market housing such that the scale and mix of housing now being promoted through a planning application<sup>41</sup> is broadly comparable to that of the appeal proposal before me. Given the similarities I see no reason why the proposed housing with care proposal at Hunstanton would either be unviable or unable to support an element of affordable elderly accommodation, particularly given preliminary interest from a registered provider<sup>42</sup>. I note the current submissions from the Hunstanton site applicant both in terms of SADMP process<sup>43</sup> and the planning application but I do not interpret this evidence as compelling signals that the draft policy requirements would be wholly undeliverable or that an acceptable resolution could not be reached. Accordingly, I do not share the appellant's doubts that specialist elderly accommodation is unlikely to be delivered on the allocated site in Hunstanton.
71. In terms of site deliverability I have carefully considered the representations<sup>44</sup> from Historic England on both the SADMP and the planning application at Hunstanton. There is clearly concern about the impact of development on the setting of heritage assets but given the very late stage of plan preparation on the SADMP (post hearing modifications) it is far from certain that Historic England's repeated representations on this site should be considered a 'showstopper'<sup>45</sup>. This is perhaps illuminated further by their comments on the planning application which make reference to the balance at paragraph 134 of the NPPF in terms of "less than substantial harm". I accept that case law has determined that this is not a low threshold but nor is it a moratorium. Ultimately I am not persuaded, on the evidence before me, that there is sufficient uncertainty or risk to discount that some of the need for elderly accommodation would be secured on the SADMP sites in Hunstanton.

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<sup>40</sup> Details in Ms Patton's PoE, paragraph 4.1 and appendices G-M and Andrew Murray's submission (Document 27)

<sup>41</sup> Reference 16/00084/OM – proposal for 60 bed care home, 60 housing with care units and 60 market dwellings

<sup>42</sup> Document 4, Appendix 1

<sup>43</sup> Document 20

<sup>44</sup> Document 8 - Signed SOCG (paragraph 3.9) agrees that Historic England's latest representations to not formally object.

<sup>45</sup> From the evidence before me at Appendix DP11 to Mr Parkin's PoE it would appear that Historic England were not a participant at the SADMP hearings into Sites F2.3 and F2.5.

72. The appellant submits that the LPA should have made further provision in the SADMP in addition to the Hunstanton allocation and that its failure to plan for the full need is in an infringement of the Care Act 2014. Various sections of the Care Act and accompanying guidance have been brought to my attention but I am not convinced that they confer direct responsibilities for land use planning. The references to "planning" in the Act seem more to do with the methods and programmes for care provision which in local authority terms tend to fall under the ambit of County and Unitary authorities and involves a diversity of activities rather than specifically any new built provision.
73. I acknowledge the wider point of the Care Act 2014 in ensuring needs are met is material. In my view the development plan is compliant with paragraph 50 of the NPPF in planning for the needs of different groups in the community (including older people). This is illustrated in the proposed allocation in the SADMP but also importantly in the Core Strategy at Policy CS09 on Housing Distribution which requires housing proposals to take account of the needs identified in the SHMA (including, amongst other things, the needs of elderly people). Accordingly, the development plan is not absent or silent on the matter of specialist housing need for the elderly.
74. To conclude on matters of need, I find the appeal proposal would make a contribution towards meeting an unmet need for specialist accommodation for the elderly including towards the 35.6% affordable requirement identified in the SHMA. However, the scale of unmet need for specialist accommodation in the Borough over the period to either 2020 or 2028 is neither "chronic" nor significant. This is in part due to measures to extend independent living at home, the potential to deliver on the allocated site at Hunstanton and through other 'windfall' schemes which are being determined in accordance with Core Strategy Policy CS09 within settlement boundaries at sustainable locations. Accordingly, I attach only moderate weight to the residual need that would be met by the appeal proposal.

#### *Other Matters*

75. The appeal proposal was not refused on highway grounds and I have little reason to disagree with the assessment of the appeal proposal, including the estimated number of vehicle movements, as presented in the LPA's committee report of 3 February 2014. There is also a statement of common ground between the appellant and the local highway authority confirming that there is no in-principle objection to the proposal on highway safety grounds subject to conditions.
76. I have considered carefully both the Parish Council's survey data and those of the appellants and I am satisfied that subject to the proposed re-prioritisation at the School Road, Lords Lane and The Broadway crossroads junction the impact on highway safety from the increased number of vehicle movements associated with the appeal proposal would not be severe. In coming to this view I have also considered traffic related to the adjacent school. However because vehicles are prohibited from parking at the junction it is a safe environment for both vehicle manoeuvres and pedestrian crossing. I also saw little on my site visit to suggest that school related parking either endangers highway safety or unduly restricts access via School Road. Accordingly, I am satisfied that the appeal proposal would be acceptable in highway safety terms.



77. The appellant has submitted a signed and dated Section 106 agreement which contains a number of planning obligations providing for the affordable housing provision, open space provision, protected habitat mitigation and financial contributions towards education and library services. From the evidence presented to me I am satisfied that the proposed contributions would be lawful against the requirements of the CIL Regulations. This includes my assessment against the 3 principal tests of necessity, relationship and reasonableness and for non-site specific obligations whether or not there have been five or more related contributions. On this basis I have therefore taken the obligations into account.

### **Planning Balance**

78. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This is reaffirmed in the NPPF<sup>46</sup> which states that development proposals which conflict with an up-to-date Local Plan should be refused unless other material considerations indicate otherwise. It is accepted that the NPPF is one such material consideration.

79. In considering the housing land supply in some detail I have concluded that when allowing for the uplift for the FOAN, a 20% buffer for persistent under delivery and a cautious 10% lapse rate it remains that the LPA can adequately demonstrate a five year supply of deliverable housing land. This is in large part due to its proactive efforts following the Clenchwarton decision, the progress made on the SADMP document and the robustness with which the associated housing trajectory has been tested during its preparation. Accordingly, the LPA is in a position to demonstrate that it is delivering a wide choice of high quality homes in accordance with the requirements at paragraph 47 of the NPPF.

80. Significantly, relevant development plan policies for the supply of housing are to be considered up-to-date. This includes the spatial strategy and distribution of housing presented in the Core Strategy at Policies CS01, CS02, CS06 & CS09 and Local Plan Policy 8/1. These policies have full weight. Additionally, the SADMP has been prepared in accordance with the Core Strategy and NPPF and due to its advanced stage of preparation I also give significant weight to Policy DM2. Consequently, because the appeal site is a non-allocated site located outside the settlement boundary in countryside it conflicts with the up-to-date development plan.

81. It is also at the edge of a tier of settlement in the Core Strategy for which a level of moderate growth has been allocated in order to secure a sustainable balance between services and population. Whilst that growth is to be regarded as minima I nonetheless consider the proposed housing allocations in the SADMP, extant permissions and windfall potential within Heacham provide ample scope for local housing need to be met in a sustainable way. The scale of the appeal proposal, which includes some 70 general needs dwellings, would harmfully unbalance the carefully considered spatial strategy which focuses greater levels of growth to those settlements where there is a wider range of services, employment and transport to support a larger population. Consequently, the appeal proposal would significantly push growth in Heacham

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<sup>46</sup> Paragraph 12

to levels that would ordinarily be ascribed to a higher tier settlement, contrary to the plan-led approach. Accordingly, I find this conflict with the development plan to weigh significantly against the appeal proposal.

82. The appellant suggests Heacham's role and allocation could be sustainably increased but there is no alternative methodology or figure before me. I consider Heacham's role in the settlement hierarchy would have been carefully tested as part of the Core Strategy process to which the SADMP needs to be consistent. Accordingly, in light of the demonstrable housing land supply, any reappraisal of Heacham's role should be considered as part of the forthcoming Local Plan review rather than on an adhoc basis.
83. Whilst the appeal proposal would not harm the landscape or scenic beauty of the adjoining AONB it would result in harm to the character and appearance of the countryside to the south-east of Heacham, detrimentally affecting the rural setting of the village. This harm would mean that the appeal proposal would be conflict with development plan policy and would fail to accord with core planning principles in the NPPF. For the reasons set out above I consider that appreciable weight should be given to the harm identified.
84. On considering the issue of need I have determined that the Core Strategy at Policy CS09 expressly deals with the SHMA and refers to the needs of the elderly and there is evidence before me that specialist elderly accommodation is coming forward in the Borough in addition to the allocated provision in the nearly finalised SADMP. Taking this into account and in the light of the case law<sup>47</sup> before me it is clear that the development plan is not silent on the matter of housing needs for the elderly.
85. Accordingly, pulling these strands together, the second bullet point of paragraph 14 of the NPPF is not engaged and the development plan prevails, together with the significant weight to be attached to the near finalised SADMP. I therefore turn to consider whether other material considerations indicate otherwise that permission should be granted.
86. I have considered that the appeal proposal would be acceptable in highway safety terms. The proposed development would offer benefits in terms of additional employment and services to the village and areas of public and recreational open space (including habitat mitigation). It would also contribute to boosting the supply of housing including specialist elderly accommodation, including needed affordable provision towards the 35.6% identified in the SHMA. Additionally residents of the appeal proposal would be sustainably located to the services and facilities in Heacham. These are all factors that weigh in favour in of the appeal proposal. However, the benefit from the supply of housing must be moderated by the availability of a healthy five year supply. Additionally the weight to meeting the unmet need for specialist elderly accommodation is also limited in light of my findings that the need is not chronic and can largely be addressed elsewhere at more sustainable locations. On balance, I am not persuaded that the cumulative benefits from the appeal proposal are sufficient to outweigh the conflict with development plan policy.

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<sup>47</sup> Bloor Homes East Midlands Ltd v. SSCLG [2014] EWHC 745 (Admin)

87. I have also considered carefully the case law<sup>48</sup> presented to me on whether the presumption in favour of sustainable development occurs more generally. On this point, whilst there would only be modest social and economic benefits arising from the appeal proposal there would be harm in respect of the environmental dimension of sustainable development in terms of the character and appearance of the locality. The NPPF<sup>49</sup> is clear that economic, social and environmental gains should be sought jointly and simultaneously. On this basis the appeal proposal would not constitute sustainable development for which there would be the presumption in favour of.
88. In terms of dismissing the proposal I am mindful that there would remain some unmet need in specialist accommodation for the elderly. I have dealt separately elsewhere with the provisions of the Care Act 2014. However, I have also had regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 which sets out, amongst other things, the duty of equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Since the appeal would provide accommodation for the elderly and disabled, they would have protected characteristics for the purposes of the PSED.
89. Even so, it does not follow from the PSED that the appeal should succeed. The variety of other sites either with planning consent or being submitted for consideration and the opportunities for sustainably located non-allocated provision in accordance with development plan policy (CS09) does not indicate that there would be inequality of specialist housing opportunities for the elderly or infirm.

### **Conclusion**

90. For the above reasons, and having regard to having regard to all other matters, including the PSED, I conclude that the appeal should not succeed.

*David Spencer*

Inspector.

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<sup>48</sup> Wychavon District Council v. SCCLG & Crown House Developments Ltd [2016] EWHC 592 (Admin)

<sup>49</sup> Paragraphs 6-9

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

James Pereira, Of Queen's Counsel

Instructed by Noel Doran, Solicitor,  
Eastlaw.

He Called

Neil MacDonald BA

NM Strategic Solutions Ltd

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Principal Planner (LDF)  
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Nikki Patton  
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Principal Planner (Planning Control)  
BCKLWN

### FOR THE APPELLANT:

Gregory Jones Of Queen's Counsel

Instructed by La Ronde Wright  
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He Called

David Bates  
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Partner  
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Director  
Liz Lake Associates

Nicole Wright  
BSc (Hons), MSc MA MRTPI

Director  
La Ronde Wright Limited

## INTERESTED PARTIES

Mr Terence Parish	Parish Councillor, Heacham Parish Council
Mr Andrew Murray	Hunstanton & District Civic Society
Mr Adrian Hood	Chairman of 'Keep Heacham A Village'.
Sir Henry Bellingham MP	Member of Parliament for the North West Norfolk constituency.
Ms Jill Davis	Local resident
Ms M Minter	Local resident
Mr Michael Williamson	Local resident & Heacham Parish Council
Ms Tracey Swann	Local resident

## Documents submitted at the reopened Inquiry event

- 1 Mr Thompson's Supplementary Proof of Evidence on Housing Land Supply
- 2 Mr Jermany's Housing Supply Additional Note & Appendices
- 3 Bailey Venning Associates Rebuttal Evidence on Scheme Viability
- 4 Ms Patton's Additional Note on Housing Need
- 5 Plans, forms and committee reports for the proposed Lidl Foodstore at the former Jet Garage, Lynn Road, Heacham.
- 6 Material for the Consultation on Additional Main Modifications to the Site Allocations & Development Management Policies document including Inspector's Preliminary Findings February 2016
- 7 LPA Time Estimates for the Inquiry
- 8 Signed Revised Statement of Common Ground
- 9 Appellant's Opening Statement
- 10 LPA Opening Statement
- 11 BCKLWN Natura 2000 Sites Monitoring & Mitigation Strategy August 2015
- 12 LPA submission on Methodology for Distributing Housing Across Settlements
- 13 Signed Highways Statement of Common Ground dated 24 April 2016
- 14 Signed Statement of Common Ground on viability matters 18 May 2016
- 16 Draft Section 106 Agreement
- 17 Draft Unilateral Undertaking
- 18 Mrs Wright's Additional Note in response to matters of Housing Need (responding to Document 4)
- 19 Appeal Decision APP/L2820/A/13/2204628 – Kettering
- 20 Correspondence from Armstong Rigg Planning of 18 May 2016 re: Land to South of Hunstanton Commercial Park
- 21 Table 7: Highest Household Growth 2001-2011 (ONS)
- 22 Tabulated outputs for Mark Thompson's Scenarios 1-4 compared to LPA original and revised figures.
- 23 Statement from Adrian Hood
- 24 Statement from Terence Parish
- 25 LPA's questionnaire form to housing site owners/developers
- 26 Press Statement from Home Builders Federation 11 May 2016
- 27 Statement of Andrew Murray
- 28 Signed Highways Statement of Common Ground with Appendices
- 29 Heacham Traffic Survey Report November 2015 from Cannon Consulting
- 30 Appellant's Updated Plan A1.1.11
- 31 Text from consultation boards for the appeal proposal 2013
- 32 Appeal Decision APP/L3245/W/15/3067596 dated 16 May 2016
- 33 Mark Thompson's Scenarios applying a 19.8% lapse rate 23 May 2016

- 34 Historic England's representations on Planning Application 16/00084/OM
- 35 Mark Thompson's Scenarios applying a 20.2% lapse rate 23 May 2016
- 36 LPA's closing submissions
- 37 Appellant's closing submissions
- 38 Legal Opinion on the materiality of the quashed Decision Letter
- 39 'The Approach to Decision-Making' from the Inspector Training Manual 2016
- 40 High Court Judgment [2016] EWHC 592 (Admin) – Wychavon
- 41 Court Of Appeal Judgment [2016] EWCA Civ 168 – Hopkins Homes Limited / Richborough Estates Partnership LLP
- 42 Appeal Decision APP/T2215/A/13/2195591 – Dartford

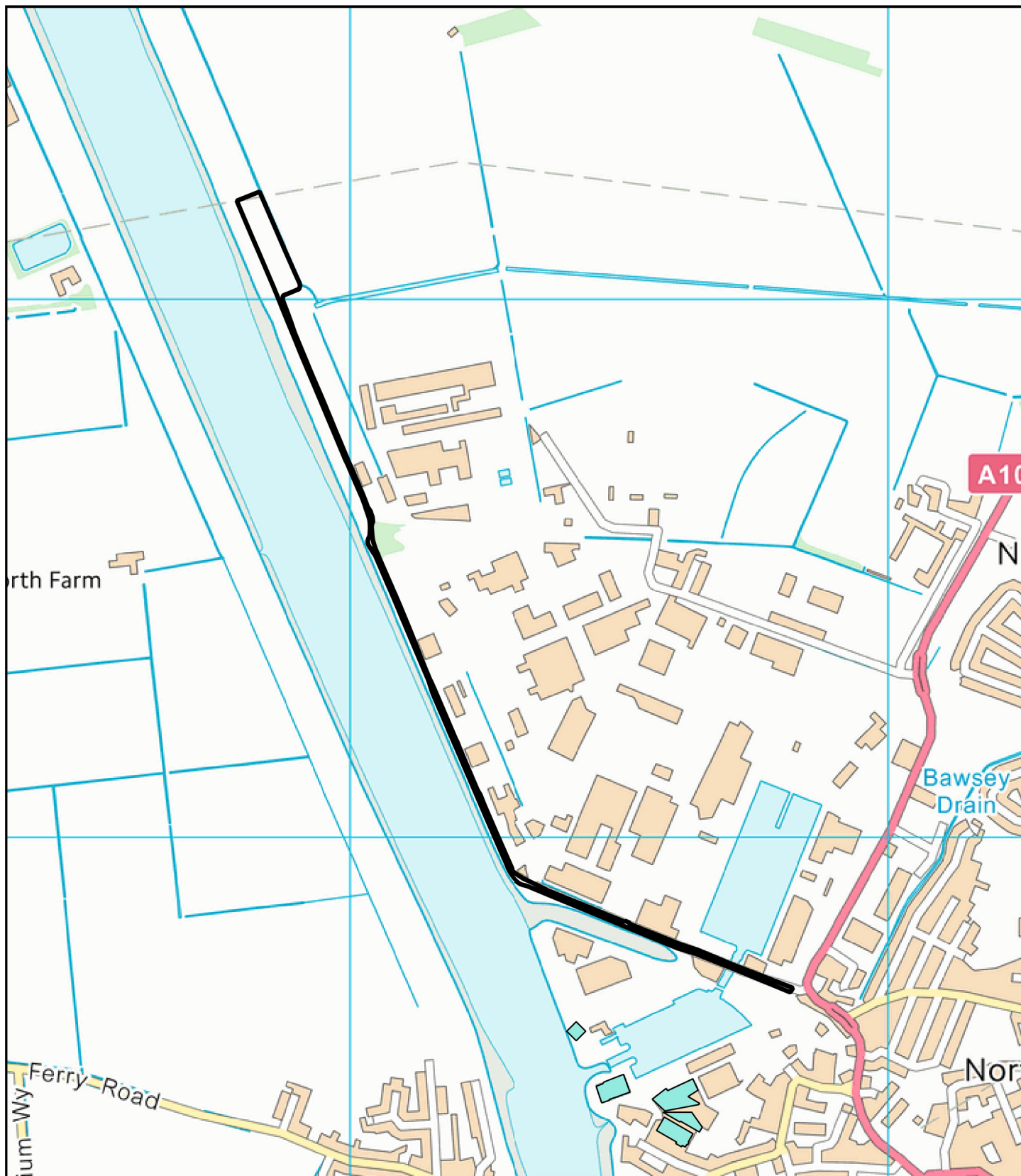
**Documents submitted after the reopened Inquiry event**

- 43 LPA response to Mr Thompson's Further Submission of Tables on 24 May 2016
- 44 Mr Thompson's response to document 43.
- 45 Signed and Executed Section 106 Agreement dated 7 June 2016



**17/01072/CM**

**Land N of Outfall S off Transmission Cables W off Road Cross Bank Road**





<b>Parish:</b>	<b>King's Lynn</b>	
<b>Proposal:</b>	<b>County Matters Application: Erection of anaerobic digestion facility (to process up to 19,250 tonnes of biomass/slurry) including reception/office building and workshop, two digesters two storage tanks, combined heat and power plant, energy crop storage area and ancillary plan. Engineering works to resurface a section of the Byway open to all traffic</b>	
<b>Location:</b>	<b>Land N of Outfall S Off Transmission Cables W Off Road Cross Bank Road King's Lynn Norfolk</b>	
<b>Applicant:</b>	<b>Mikram Ltd</b>	
<b>Case No:</b>	<b>17/01072/CM (County Matter Application)</b>	
<b>Case Officer:</b>	<b>Mr C Fry</b>	<b>Date for Determination: 29 June 2017</b>

**Reason for Referral to Planning Committee** – Raises issues of wider concern

**Case Summary**

The site is located on scrubland to the east of Cross Bank Road, approximately 2km to the north west of King's Lynn town centre and some 200m to the north of the defined built environment.

The application seeks consent for an Anaerobic Digestion plant, producing up to 0.9 MW of renewable energy per annum (providing the equivalent power for 2,000 households).

The facility would comprise a reception building, a workshop, 2 low profile rectangular digester tanks, 2 storage tanks, a combined heat and power plant, feedstock clamp, flare stack, ancillary plant and new vehicular access. A bio-gas boiler has also been specified within the process building.

Members may recall a previous County Matter application, 16/01145/CM, for a very similar proposal albeit producing slightly more renewable energy.

The application is made to Norfolk County Council as the Minerals and Waste Planning Authority; the Borough Council as Local Planning Authority is a consultee.

**Key Issues**

The main issues raised by the application are:-

- Principle of development;
- Landscape and Visual Impact;
- Traffic;
- Noise & Odour; and
- Flood Risk.

## Recommendation

**NO OBJECTION** subject to the resolution of issues regarding landscape, flood risk and the safety of the high users of Crossbank Bank Road.

## THE APPLICATION

The site is located on scrubland to the east of Cross Bank Road, approximately 2km to the north west of King's Lynn town centre and some 200m to the north of the defined built environment.

The site measures approximately 0.8 hectares.

Access to the site is from Cross Bank Road, which leads directly to Edward Benefer Way and the A148.

An existing mature hedgerow and intermittent trees separate the site from Cross Bank Road to the west. The River Great Ouse occupies a wide channel to the west of Cross Bank Road and King's Lynn sewage works lies to the north west of site, across the river. Industrial buildings are located to the south east, the closest being PIL Membranes. The eastern boundary of the site adjoins open farmland.

The site is located some 500m from the closest dwelling, and approximately 800m from The Wash National Nature and 1.7km from the closest European designated site, RAMSAR, or SSSI. It lies within Flood Zone 3.

The application seeks consent for an Anaerobic Digestion plant, producing up to 0.9 MW of renewable energy per annum (providing the equivalent power for 2,000 households).

The facility would comprise a reception building, a workshop, 2 – 4.8m high digester tanks, 2 storage tanks, a combined heat and power plant, feedstock clamp, flare stack, ancillary plant and new vehicular access. A bio-gas boiler, has also been specified within the process building.

The previous proposal produced approximately 12,000 tonnes of cereal crop matter per annum which was supplemented by 2000 tonnes of animal waste making a total of 14,000 tonnes per annum. With this proposal the tonnage is proposed to increase by 5,250 tonnes so the plant has a maximum throughput of 19,250 tonnes per annum. This will be achieved by an increase in slurry transportation.

The facility would be staffed by 2 full time employees (or equivalent), who would be responsible for the day to day management of the facility.

This is a resubmission to Norfolk County Council, who refused the application on the basis that:- the proposal failed to determine whether the proposed development during its construction and operation would be acceptable in terms of its impact upon the safety of those users of Cross Bank Road in the Fisher Fleet and Dock Areas; the failure to provide sufficient information of the construction phase of the development to enable determination of the impact upon the amenity of local residents and businesses; the application had failed to provide information in regards to the flood risk sequential test to demonstrate that there are no other reasonably available sites appropriate for the proposed development in a lower risk flood zone.

## SUPPORTING CASE

The application is accompanied by the following documents:

- Planning Statement;
- Ecology Report;
- Transport Statement;
- Noise Assessment;
- Air quality Assessment;
- Landscape and Visual Impact Assessment; and
- Flood Risk Assessment.

The Planning Statement is summarised as follows:-

- Feed stock will be brought onto site via Cross Bank Road, which will remain a BOAT. The existing surface will be upgraded and passing places will be provided.
- A 2.5m wide, type 1 surface section will be provided on the western side to be used by pedestrians and for horse riding.
- The remaining 3.5m wide section on the eastern side would be metalled for use by vehicles. Vehicular access will be extended as a metalled surface within the western site boundary.
- Deliveries to service the facility will take place between the hours of 0900 and 1700 Monday to Friday and 0900 to 1300 on Saturday. No deliveries will take place on Sundays and Bank Holidays.
- There will be 6.67 HGV movements a day (to and from – total 13.34) during the harvest period and 4.02 return movements outside of the harvest.
- If an access were to be used over the a culverted drainage ditch to transport the maize and digestate instead then there would be no movements on the highway during the harvest period and 2.2 return (4.4 individual movements) outside of the harvest.
- During the construction phase, work will only be carried out Monday to Friday over a 9 month build process.
- There will be 500 vehicle loads used in the construction phase, creating 1000 individual movements during this period. This will equate to an avg. of 2.7 vehicle visits per day (5.4 movements) during the construction phase.
- Landscaping will involve planting along the site boundaries
- Lighting will only be activated outside of operating hours for emergency maintenance procedures.
- There will be significantly less spoil removal compared to the previous application
- The number of HGV movements has been significantly reduced from 3,000 to 1,000 HGV movements.
- The creation of a link to an existing agricultural track in the local fields supplying maize and receiving digestate at North Lynn Farm.
- There is an option to pump digestate straight from the facility onto the adjacent field.
- The proposal is not affected by any procted species issues
- It is over 900m from the nearest residential properties
- It is close to the applicant's main business premises and centre of operations, thereby offering significant operational benefits;
- The proposed use is not classed as flood sensitive development under the NPPF on flooding.
- It would not be visually intrusive given the design and low profile nature of the development and the landscaping proposals.

- The choice of materials is designed to minimise visual impact. Key structures which will be finished in dark green (RAL 6005).
- A wooden noise barrier will also be installed to further
- The development would employ sustainable urban drainage techniques.

The development would help to supply renewable energy to 2 companies

## PLANNING HISTORY

16/01145/CM: OBJECTION:- COUNTY MATTERS (NCC – C/2016/2011 – REFUSED 3/4/17): Erection of anaerobic digestion facility (to process up to 14,000 tonnes of cereal crops/slurry) including ancillary reception/office building and workshop, two digesters, two storage tanks, combined heat power plant, energy crop storage area, flare stack, ancillary plant and improvements to proposed access (widening and resurfacing).

15/02144/CM: Application Withdrawn: 27/01/16 - County Matters Application: Erection of anaerobic digestion facility (to process cereal crops/food waste) including ancillary reception/office building and workshop, two digesters, two storage tanks, combined heat power plant, energy crop storage area, flare stack, ancillary plant and new vehicular access - Land N of Outfall S Off Transmission Cables W Off Road, Cross Bank Road, King's Lynn, Norfolk

12/01681/FM: Application Permitted: 05/02/13 - The grounds will be used as a temporary means to support solar PV panels, which will generate electricity for the use of the national grid. Small storage blocks will accompany the alteration to house electrical equipment and will as such not include any extension or demolition - Mickram Limited - Cross Bank Road, King's Lynn, Norfolk, PE30 2HD – Lapsed without implementation.

## RESPONSE TO CONSULTATION

The application is to be determined by Norfolk County Council as the Minerals and Waste Local Planning Authority. The Borough Council has not, therefore, carried out its own consultation.

However, the following comments have been sent to the County Council

**Environmental Health & Housing** despite receiving information from The Planning Group Ltd, dated 20th June 2017, we still have concerns regarding the impact of increased noise from deliveries to site, odour from deliveries to site, and dust from the construction phase impacting on local residents, however, both the environmental quality team and community safety neighbourhood and nuisance team are able to remove their objection to this application subject to conditions being attached.

It is noted that the Environmental Permit to be issued by the Environment Agency will regulate emissions to air, odour, noise from the site during the operational phase and therefore planning conditions have not been recommended to control these potential impacts.

Condition 5 is recommended as the Construction Management Plan submitted as part of the planning application lacks the specific information needed to protect residents from noise and dust during construction and will need to be updated.

Conditions suggested regulate the delivery hours, the total number of deliveries, offsite noise management plan to protect residents along Crossbank Road, offsite odour management plan and construction management plan.

**King's Lynn Civic Society: OBJECTION** we feel as though this is an inappropriate proposal for this location and we feel there are still many vague aspects to the information provided. The importation of bio-mass will impact upon main roads into and through Lynn and the surrounding urban areas. It is difficult to think of a more restricted catchment area for such a plant anywhere else in West Norfolk.

Odours from trucks will be problematic (as demonstrated when the shellfish factory exports waste shells). In addition Edward Benefer Way already suffers from congestion and this will be exacerbated in future by the new Lynn sport access.

The proposed plant will have a significant adverse impact on this gateway to Lynn and the coastal path route – not least, impacting on the safety of pedestrians and cyclists who may be using the route.

Other matters include; whether Dow will sign up to the electricity given a likely take over in the near future; hot water and steam, exported off site via an underground cable connection; maize will come from further afield than the nearest farmland;

## **REPRESENTATIONS**

The application is to be determined by Norfolk County Council as the Minerals and Waste Local Planning Authority. The Borough Council has not, therefore, carried out its own consultation.

## **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

National Planning Policy for Waste (2014)

Waste Management Plan for England (2013)

National Anaerobic Digestion Strategy and Action Plan (2011)

## **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS06** - Development in Rural Areas

**CS08** - Sustainable Development

**CS10** - The Economy

**CS11** – Transport

## **CS12 - Environmental Assets**

Norfolk Minerals and Waste Local Development Framework Core Strategy and Minerals and Waste Development Management Policies Document Plan Document 2010-2016 (2011) (NWMDP)

- **CS7** – Recycling, composting, anaerobic digestion and waste transfer stations
- **CS13** – Climate Change and renewable energy generation
- **CS14** – Environmental Protection
- **CS15** – Transport
- **DM 1-** Nature Conservation
- **DM3** – Groundwater and surface water
- **DM4** – Flood Risk
- **DM8** – Design, local landscape and townscape character
- **DM10** – Transport
- **DM12** – Amenity
- **DM13** – Air Quality

Norfolk Minerals and Waste Local Development Framework Waste Site Specific Allocations DPD (2013)

- **WAS05** – Land at Estuary Road, King's Lynn

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

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

**DM2** – Development Boundaries

**DM15** – Environment, Design and Amenity

**DM20** - Renewable Energy

## **OTHER GUIDANCE**

The application is submitted to Norfolk County Council as the Minerals and Waste Local Planning Authority. The Borough Council as Local Planning Authority is not the determining authority: the purpose of this report is to seek the Committee's views on a consultation response.

The main issues raised by the application are:-

- Principle of development;
- Landscape and Visual Impact;
- Traffic;
- Noise & Odour; and
- Flood Risk.
- Other Matters

## **Principle of Development**

The site lies in land defined as countryside in the local plan where Core Strategy CS06 generally seeks to restrict development in line with NPPF policy to preserve the intrinsic beauty of the countryside. However the site lies on the edge of an industrial area, based around King's Lynn Docks.

Outside settlement boundaries, emerging development management policy DM2 details the kind of development that may be acceptable in the countryside and includes renewable energy such as anaerobic digestion, which creates energy from waste or plant materials.

Policy DM20 states that proposals for renewable energy will be assessed in terms of their impact upon:-

- Sites designated for their landscape or ecological value, such as the AONB and SSSIs;
- Landscape;
- Heritage assets;
- Ecological interests;
- Amenity including noise and air quality;
- Contaminated land;
- Water courses;
- Public safety including road safety and users of footpaths, by-ways etc; and
- Tourism and other economic activity.

Subject to the impact of the proposal upon these interests, the proposal is acceptable in policy terms.

## **Landscape and Visual Impact**

The buildings that the development would comprise of are described earlier on in this report. The two digester tanks are 4.8m high, however these tanks are on lower ground than the height of the road, this effectively renders them to be 3.3m above the road level.

The application is accompanied by a Landscape and Visual Impact Assessment. This concludes that there would be limited landscape and visual effects arising from the proposed development and that these would largely be restricted to the immediate surroundings of the development.

It bases this conclusion upon an analysis of the existing landscape, which includes industrial elements in the form of the sewage works on the opposite side of the river and industrial plant at Porvair and Dow to the south as well as pylons and two wind turbines and the sinking of the tallest elements of the AD plant below the existing roadway.

It is noted that the Green Infrastructure Officer to NCC has placed a holding objection in terms of the proposal's impact in terms of landscape as the landscaping scheme appears inconsistent; clarification is sought in regards to the gradient of the eastern bund and the use of wooden fencing boundary treatment.

## **Traffic**

The amount of traffic generated once the plant is operational will depend upon the fuel source for the digester. Three scenarios were considered in the applicant's transport statement in regards to the previous proposal.

- 1) Biomass material (maize) from farmer of adjoining land;
- 2) Delivery of biomass from outside contractor; and
- 3) Animal waste used as fuel.

Members in their deliberations of these scenarios raised traffic issues and felt that the impact upon the users of Crossbank Road and in particular the northern section of Crossbank Road was unacceptable. Further comments made by Members referred to there being no direct field access to the site that would allow direct delivery of the fuel described by the applicant.

NCC had refused the previous application on public safety grounds, particularly the issues raised in terms of the public safety of those using Crossbank Road in the Fisher Fleet and Dock areas.

The proposal is now solely reliant on maize and slurry to fuel the Anaerobic digester. All traffic will go through the port area.

The construction phase of the proposal is expected to last 9 months during which there will be 500 HGV vehicles (1000 movements) involved with construction phase (average 5.4 movements per day). This is a reduction in the number of HGV movements involved with the previous application which was reported at 3000 movements, by virtue of retaining more of the waste spoil from construction on site.

During the operational phase, maize will travel from North Lynn Farm to Crossbank Road by the public highway and slurry will be delivered from several farms around the King's Lynn area. There will be 6.6 vehicles visit the Anaerobic digester per day during the harvest period and 4 vehicle deliveries per day outside of the harvest period and 1 trip per day transporting digestate from site. Deliveries will mainly take place between 09:00 and 17:00 Monday to Friday and 09:00 to 13:00 on Saturday. The transport statement concludes that the ghost island junction of the A1078 (Edward Benefer Way) and Cross Bank Road can accommodate the predicted increase in vehicle movements,

Other alterations include additional space being provided adjacent to the Byway to aid visibility, the surface of the road where it passes beyond Porvair and is currently surfaced with shell fish will be hardened and improved to a haul road up to the access to the digester.

The transport statement considers that much of Cross Bank Road is wide enough to accommodate 2 way HGV movements. Where it is not the statement proposes widening the road on the bend as the road swings round to run parallel to the river with widening to the north of this point so 2.5m of the highway will be provided on the shoreside of the road to be used by pedestrians and horse riders and a 3.5m wide section provided on the eastern side to be used by vehicles.

The applicant suggests that there could be a direct access to North Lynn farms however this does not form part of the proposal.

The Associated British Ports Authority have yet to comment on the proposal at the time of writing this report. In regards to the previous scheme there was an objection from Associated British Ports regarding increased traffic on Cross Bank Road through the port and from members of the public to increased use of the private section of the road.

Notwithstanding these concerns, the Local Highway Authority has no objection to the proposal subject to conditions in regards to the previous proposal, NCC Minerals and Waste Planning refused the previous application on the applicant failing to enable the determination of whether the proposed development during its construction and operation would be



acceptable or whether it would result in an unacceptable impact on the safe use of Cross Bank Road in the Fisher Fleet in terms of the impact upon public safety.

This particular issue is still to be discussed between NCC officers and the agent.

### **Noise & Odour**

On-site process will be covered by a permit from the Environment Agency under separate legislation. A license application will be made but has not been yet. The licensing process will control all emissions from the processes on the site, including noise and odour. The planning process should not replicate other legislation so the committee is advised that an objection would not be sustainable on noise and odour grounds.

The Environmental Health department have produced a joint statement in regards to the off-site noise and odour issues and have no objection to the proposal subject to conditions that restrict delivery times and the number of deliveries per week and a detailed construction management plan and off-site odour plan.

### **Flood Risk**

The site is in Flood Zone 3. The County Council as determining authority needs to be satisfied that there are no sites available at lower risk of flooding (the sequential test) before applying the exception test.

The development is classed as 'Less Vulnerable' in the national Planning Practice Guidance and is acceptable under the exception test provided that the development is accompanied by a site specific Flood Risk Assessment (FRA) that demonstrates the site is adequately protected from the risk of flooding.

NCC refused the previous application on the grounds that it failed the sequential test.

### **Other matters**

#### *Designated Sites and Ecology*

Correspondence to NCC from Natural England indicates that the proposal will not have a detrimental impact upon nationally designated nature conservation sites.

The site is 3km distant from the AONB and has little impact upon views into and out of the area.

In regards to Protected Species, the County's ecologist to NCC has not placed a holding objection, but seeks amendments to the ecology report.

#### *Heritage Assets*

Comments from Historic Environment Service to NCC state that the proposal will not impact on heritage assets.

#### *Contaminated Land*

No comments have been made by the Council's Environmental Health team regarding contamination of the site or the need to remediate.

#### *Water courses*

No objections regarding pollution have been raised by the Environment Agency, which has a statutory responsibility to protect controlled waters.

#### *Public Rights of Way*

The committee will need to consider the impact of the proposal upon the private sections of Cross Bank Road and the users of it, including the public by-way.

The PROW officer has commented to NCC that there would be the need for a temporary closure order to suspend the public use of the route during the construction phase of the development. The private right of using the route is not suspended, however the safeguarding of the private users of Crossbank Road, whilst construction works are taking place, would need to be considered by NCC.

#### **CONCLUSION**

The proposal complies with policy CS06 of the Core Strategy as elaborated upon by emerging policies DM2 and DM20 provided that issues in regards to the safety of the highway users of Crossbank Road, flood risk and landscape are satisfactorily addressed.

In the light of this, it is recommended that the Council as Local Planning Authority does not object to the proposal, subject to the issues above being satisfied.

#### **RECOMMENDATION:**

**NO OBJECTION** subject to the satisfactory resolution in regards to the safety of the highway users of Crossbank Road, flood risk and landscape.