

Parish:	Downham Market	
Proposal:	Outline planning application for up to 250 dwellings and associated infrastructure and access.	
Location:	Land At Nightingale Lane Downham Market Norfolk	
Applicant:	The Grosvenor Partnership 3LP	
Case No:	17/01050/OM (Outline Application - Major Development)	
Case Officer:	Mrs H Wood-Handy	Date for Determination: 3 October 2017 Extension of Time Expiry Date: 8 May 2018

Reason for Referral to Planning Committee – The recommendation is contrary to the Town Council's comments

Neighbourhood Plan: No

Case Summary

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

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

The current application is in outline form with all matters reserved apart from access. Originally the application was submitted for up to 300 dwellings including land to the north and outside the allocated site. The application has been revised to reduce the number of dwellings to up to 250 dwellings following concerns regarding density and parking.

Key Issues

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

Recommendation

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

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

THE APPLICATION

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

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

The current application is in outline form with all matters reserved apart from access. Originally the application was submitted for up to 300 dwellings including land to the north and outside the allocated site. The application has been revised to reduce the number of dwellings to up to 250 following concerns regarding density and parking.

An indicative Master Plan and Framework Plan have been submitted.

The indicative Master Plan demonstrates how the site might be developed and indicates a vehicular access in the form of a priority controlled roundabout from the A1122 to the south east corner of the site. Improved pedestrian/cycle links to London Road, Nightingale Lane (PROW) and Ryston End are also indicated improving north/south and east/west linkages. A TPO tree belt would be incorporated into the development which runs parallel on an east/west axis to the A1122 to the south of the site. Nightingale Lane would split the site into two development areas served by separate main streets travelling east/west and north/south. Landscape and open space buffers are indicated along the A1122, to the west boundary (incorporating a buffer zone for Great Crested Newts) and to the east and northern areas of the site which incorporate SuDS features. The scheme indicates that mainly two storey dwellings would be provided with a mix of semi-detached and detached units. Indicative house types include bungalows, 1.5, 2 and 2.5 storey dwellings but the majority of units would be 2 storey. Affordable housing would be provided at 20% with a 70/30 social rented/shared ownership split.

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

The site is CIL liable.

SUPPORTING CASE

1. The proposed development of up to 250 residential units within a 13.66 hectare site includes open space with a strong green infrastructure network, and new linkages to the town, schools and the local footpath network. It is considered that the proposed layout responds sympathetically to the character of the landscape and urban surroundings and has been designed to retain landscape features and strengthen key characteristics of the surrounding area, whilst minimising visual intrusion. Whilst there would be some localised effects on landscape features, the character of the site and immediate surroundings, and on visual amenity in the immediate vicinity of the site, mitigation measures to reduce these potential effects have been incorporated into the illustrative proposals.
2. Policy CS08 requires (inter alia) that new development should: enrich the attraction of the borough; respond to the context and character of the place; ensure that scale, density, layout and access will enhance the quality of the environment; and enhance community wellbeing through being accessible, inclusive, locally distinctive, safe and promote healthy lifestyles.
3. The Design and Access Statement for the proposed development of up to 250 units sets out how the indicative proposal contributes to the aims of Policy CS08, to optimize the density of a development, while taking into account the form and character of the development's setting. Pages 53-54 of the Design and Access Statement set out that, although the proposed development's density and urban form does not replicate the low density 1960s bungalow development of the immediately adjacent townscape, it is not atypical of the general and varied form of development that has emerged in Downham Market over the years.
4. With a nett density of 35.7 dph and a gross density of 18.3 dph, the proposal is within the density range found in Downham Market, and similar to other town edge development at Landseer Drive and Bennett Street. It is considered that it would not make the best use of land, in light of the NPPF's support for sustainable development, to expect new development to replicate the past very low density bungalow developments within the southern sectors of Downham Market.
5. The illustrative layout would have a sensitive relationship to the town edge and countryside setting, with existing properties separated from new dwellings by offsets, buffer planting, proposed rear gardens or planted open spaces. A large area of recreational open and play space containing attenuation basins, pathways, and existing and proposed trees and hedgerows will provide biodiversity and visual amenity benefit. This open space wraps around the southern and eastern edges of the development, meaning the development would present an attractive setting to the town on approaching Downham Market from the A1122.
6. The scheme respects the adjacent urban grain and street pattern. It provides a range of dwelling sizes, types and tenures offering a choice of lifestyles, with properties arranged around feature spaces throughout. Whilst the proposed density is higher than adjacent bungalows dating from the 1960s-1970s, this is to make best sustainable use of land. Dwelling styles (to be confirmed at reserved matters stage) would make use of local materials and would reflect the style of more recent developments in Downham Market such as at Ravensway. Larger properties would be located on key corners to create waymarkers and the dwellings would be arranged around open spaces, creating a series of distinctive places within the development.

7. In summary, the proposed development responds sympathetically to the existing settlement pattern and the wider landscape context, and has been designed to minimise visual intrusion. The proposed layout integrates with and augments the strong green infrastructure network with new open spaces. The proposal would be discreet in the landscape and forms a sustainable and appropriate extension to the south-eastern edge of Downham Market, rounding off the settlement rather than extending it into the wider countryside.
8. Policy DM15 requires (inter alia) that new development should protect and enhance the amenity of the wider environment, including overlooking and visual impact. Scale, height, massing, materials and layout should respond sensitively and sympathetically to the local setting and pattern of adjacent streets and spaces through high quality design. The policy also requires safe access and adequate parking provision.
9. It is considered that the proposals are in accordance with the Development Plan (paragraph 11 of the Framework) and the presumption in favour of sustainable development (paragraph 14 and Policy DM1).

PLANNING HISTORY

16/01322/OM – Application Refused: 07/04/17 - Outline application for up to 300 dwellings and associated infrastructure and access.

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

RESPONSE TO CONSULTATION

Downham Market Town Council: OBJECT to original and amended scheme on the following grounds:

Amended scheme (250 dwellings)

- Despite a reduction in density to a proposed 35.7dph, this is still out of keeping with the surrounding area noting in application 15/00135/OM - Extant permission for 170 houses on the site - the same developer in their own supporting Design and Access Statement - Chapter 6.0.Conclusion (page 59) commented "Development is at a density of 26dph based on net development density, which is representative of housing in adjacent developments". All the same grounds as per the Town Council's response following its extraordinary meeting of 30th August 2017 remain unanswered and therefore continue to be valid and in the interests of clarity these are appended below. Lastly, should development proceed, the Town Council would wish to see a greater proportion of starter homes for young local townspeople.

Originally submitted scheme (300 dwellings)(summarised):

- Duplicate of application 16/01322/OM;
- References the SADMP which acknowledges that Downham Market has experienced large scale growth over recent years and that the Town has now been allocated a lower proportion of the Borough's new growth over the next decade to allow the town to settle and for services and facilities to adjust to the increased population;

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- Disappointed that despite the allocation F1.4 stating 140 dwellings, planning permission 15/00135/OM approving 170 dwellings means that the allocation is already over-subscribed;
- Density is a concern – density has increased from 26 to 45 dph – 45 dph is defined as a High Density Inner City Development. Therefore the proposal is totally at odds with adjacent and similar developments.
- Greenspace will be reduced to accommodate an extra 130 dwellings reducing from 7.08ha to 4.69ha;
- Ref 16/01322/OM was originally submitted for 500 dwellings and then reduced to 300 with the application site being reduced to that of the allocation. Additional land to the north within the applicants ownership means that should this come forward at a future date, combined with increased numbers on the existing allocation, would lead to overdevelopment;
- Concerned regarding the access into the site and wishes to see an improved gateway for London Road, Downham and Denver Village;
- Wishes to see a tangible community asset provided such as nursery, child centre, supermarket (as shown with 500 houses) and the amended design offers nothing;
- Without additional infrastructure in place in advance for water , sewage, electricity and increased traffic, the development cannot be sustainable;
- Downham Wastewater Treatment Works has a maximum population equivalent capacity of 10000. The Town Council is not aware of any additional capacity being added and would note that the current population at March 2017 is 11667. It is an oversubscribed service even without the proposed development.

Denver Parish Council: Denver PC is concerned about the access onto the A1122 and the extra population that will impact on Denver VC School and Downham Market facilities.

Highways Authority: NO OBJECTION subject to conditions regarding estate road maintenance, detailed plans of roads, construction traffic management plan, wheel cleaning, offsite highways improvement works

NCC Public Rights of Way Officer: NO OBJECTION. Access requirements negotiated under the previous application and remain unchanged. It is noted that the previous application triggered a claim for the addition of the east-west access route bisecting the site as a public right of way. The claim has now been processed and on the basis of the evidence, it is likely that the decision will be to record the routes as a Restricted Byway.

NCC Minerals and Waste: NO OBJECTION

NCC – LLFA: NO OBJECTION subject to condition

NCC – Planning Obligations: The following infrastructure would need to be funded through CIL: early education places, primary school places, library provision, public rights of way contribution. Five (5) Fire hydrants would need to be secured via condition.

Historic Environment Service: NO OBJECTION subject to condition regarding archaeological mitigation.

Natural England: NO OBJECTION subject to mitigation – contribution of £50 per dwelling to the Council's monitoring and mitigation strategy to contribute to monitoring and/or small scale mitigation on designated sites. Standing advice should be use for advice on protected species.

Anglian Water: No response to date.

Internal Drainage Board: Sustains earlier objection however recognises that the LLFA have raised no objection subject to conditions. The Board has concerns that the off-site area to the Board's District may be compromised if the LLFA's conditions cannot be met.

Chief Execs Dept- Housing Strategy Officer: NO OBJECTION subject to the provision of 20% affordable housing equating to 50 units split 35 for affordable rent and 15 for shared ownership to be secured by S106 agreement. Provides comments on the suggested mix.

Central Services – CSNN: NO OBJECTION subject to conditions regarding noise protection, foul and surface water drainage, lighting and dust suppression and construction method

Environment & Planning – Environmental Quality: NO OBJECTION subject to conditions regarding contamination investigation and remediation and dust management during construction.

Environment & Planning – Planning Policy Team: NO OBJECTION on the following grounds:

- Downham Market has clearly been identified as a sustainable settlement for growth by the Core Strategy adopted in 2011
- The Site Allocations and Development Management Policies Plan makes allocations accordingly.
- The current planning application is for one of the Strategic Site Allocations within the Borough Council's Local Plan.
- The Local Plan and the Site Specific Policy F1.4 offer flexibility in terms of the numbers which could come forward on the site, by expressing the number of dwellings as 'at least'. This is to ensure that the housing need is met and a five year housing and supply is maintained
- 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.
- Therefore it is vital that proposals are not only consistent with the Policy F1.4, but also others within the Local Plan, in particular:
 - CS08 Sustainable Development and
 - DM15 – Environment, Design and Amenity
 - As well as having regard to national policy (NPPF).

After careful consideration it is considered that the proposal is consistent with these policies, including making the best use of land on a Borough Council Strategic Local Plan Allocation.

- The amended scheme shows a reduction in dwellings from 300 to 250; this leaves large areas of open / green space and a buffer between Downham Market and the bypass. The gross density is much lower than other recent estate style developments in the Town.

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- The Borough Council is currently seeking further allocations through the Local Plan review. This proposal is for a site that has already been through the local plan process and has been found to be 'Sound'. Therefore it could be considered unreasonable to refuse, given that:
- The proposed development, including the uplift in dwelling numbers, is considered consistent with the policy aspirations and strategic direction of growth set by the Local Plan

Greenspace Officer: NO OBJECTION subject to the provision of 56m2 of open space per dwelling split 70% for amenity/outdoor sport/allotments and 30% as suitably equipped children's play space. Amounts to 1.4ha of open space/splay space for the site.

Norfolk Constabulary: NO OBJECTION. Recommends Secure by Design principles.

Open Spaces Society: OBJECTS on the following grounds:

- Loss of greenfield land/countryside;
- Reduction in public's ability to enjoy the Denver Restricted Byway No 23;
- Appears to block a Right of way claimed by Downham Market Town Council

REPRESENTATIONS

Originally submitted scheme – 300 dwellings – **54** letters of **OBJECTION** regarding the following (summarised):

- Should avoid building on greenfield and good quality agricultural land
- Lack of infrastructure for development and the Town overall – school places, nurseries, play areas, surgery, dentist, pharmacies etc. Provision needs to be made within the development;
- Facilities such as a multi storey car park should be provide for the town as part of the development;
- Access should be limited to the A1122 and not Nightingale Lane/Ryston End;
- Nightingale Lane has historical significance as a public right of way with the trees planted in the early 1900s;
- Traffic and pollution underestimated particularly during the beet campaign;
- Public transport inadequate;
- London Road and Downham Road junction is an accident black spot – highways own the land and improvements could be made to resolve exiting problems as well as serve the site;
- Width of internal roads will lead to parking issues and impact on pedestrian safety;
- Ryston End cannot cope with highways improvements;
- 2/3 storey houses inappropriate adjacent to bungalow development;
- Density similar to a city centre scheme with the height of dwellings inappropriate in a rural locality;
- Downham Market will lose its heritage and will not be an attractive place to move to;
- Discrepancies in the D & A;
- Sewage treatment works lacks capacity;
- Natural springs in the locality giving rise to flood risk issues;
- Water infrastructure through Nightingale Lane which may be affected;

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- IDB maintain objection
- Clear that developer wishes for far more dwellings than permitted given land in their ownership to the north of the site;
- Under the impression that there were covenants restricting the development of the land;
- Loss of view, outlook and privacy;
- Number of dwellings would give rise to noise and light pollution;
- Bats, birds and other protected species are affected by the development and query ecologists findings;
- Limited employment opportunities in Downham Market;
- Impacts on parking within the town and already issues at the Railway Station and existing car parks;
- Many houses on new estates in Downham Market remain unsold, empty or rented privately;
- Planning permission already refused for the same development;
- None of the previous reasons for refusal have been resolved;
- Support Town Council's comments and the Borough should listen to local people;
- Borough Council should be obliged to defend previous reasons for refusal

Amended scheme – 250 dwellings – **17** letters **OBJECTING** on same grounds outlined above and in addition:

- Doesn't matter whether 300 dwellings or 250 dwellings, still object to the development;
- Site not closely linked to the town centre as developer suggests;
- New primary school required;
- Devaluation of property;
- Phasing clearly indicates the developers intention to swamp the area with the development;
- Submission of three applications indicates the developers intention to wear the Borough Council down – severe pressure on the Borough Council due to austerity measures.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS04 - Downham Market

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS09 - Housing Distribution

CS11 – Transport

CS12 - Environmental Assets

CS14 - Infrastructure Provision

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM12 - Strategic Road Network

DM15 – Environment, Design and Amenity

DM16 – Provision of Recreational Open Space for Residential Developments

DM17 - Parking Provision in New Development

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

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

OTHER GUIDANCE

Downham Market Town Design Statement

PLANNING CONSIDERATIONS

The main issues are:

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

Principle of Development

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

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

Members resolved to approve planning permission for 170 dwellings on the site on 4th July 2016 with the decision notice being issued following the completion of the S106 Agreement in October 2016. The Applicant submitted an application for 500 dwellings including the allocated land and land to the north in their ownership. Following the adoption of the Site Allocations and Development Management Policies Plan 2016, the Applicant was advised that the proposed development would be contrary to Development Plan policy and would therefore be refused. The Applicant then reduced the red line to accord with Policy F1.4 and reduced the proposed number of units to “up to 300”. This application was subsequently refused at Planning Committee in April 2017 on the grounds of inappropriate density, localised highway issues and inappropriate siting of roundabout and unsustainable development.

The current proposal (17/01050/OM) was originally submitted for up to 300 dwellings. However the applicant was advised to reduce numbers to a more acceptable level given the reasons for refusal on the previous application and the comments of Planning Committee. The proposed numbers have now been reduced to up to 250 dwellings. Whilst the numbers are 80 more than that previously approved, the proposal is consistent with the allocation. Advice from the Inspector during the Local Plan Hearings was that any allocation should specify a minimum number of houses and “at least” was subsequently added to allocation wording within the Plan. This is extremely important to maintain a 5 year housing land supply and to prevent inappropriate development in less sustainable locations. In this case, assessment of acceptability is on a site by site basis as indicated below.

In order to maintain the countryside buffer and take account of the various constraints, net densities would be 35.7dph which is 10dph less than the application for 300 dwellings considered by Members in April 2017. This density is acceptable in your officer's opinion to make the most efficient use of land without compromising form and character. Given that the site amounts to 13.66ha with greenspace (including play space) of 4.69ha, an additional 1.97 ha of incidental greenspace including buffer and amenity planting and the plan submitted is indicative only, it is considered that up to 250 dwellings could be achieved with varying dwelling types. However, this would ultimately be determined at Reserved Matters stage and could be less numbers (certainly not more).

In terms of other factors of the policy, the proposal generally conforms to Policy F1.4. The site is relatively constraint free, in other words sustainable and has ultimately been found “sound”. In line with 15/00135/OM and Members wishes to see allotments provided on site, it is considered that 3 allotments (1 plot per 200 people) would be required and conditioned accordingly.

Form and character

The west part of the site is bounded by residential development to London Road, Ravensway and Denver Hill and the north and east part of the site is bounded by Crow Hall Cottages and farmland. The southern boundary abuts the A1122. A strong TPO tree belt lines Nightingale Lane running north-south through the site and a further tree belt, also a TPO designation, runs parallel to the A1122 in the southern part of the site. There are two natural ponds adjacent to Nightingale Lane. In terms of the site in the surrounding

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landscaping, there are views from the A10 toward the site (looking from the east), and existing vegetation along the A1122 boundary with the western section of the site being higher than the road.

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

From a form and character perspective, given the existing setting, it is not considered that the development would adversely affect the visual amenity of the locality in accordance with Policy CS08 of the Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Management Policies Plan 2016. However, the detailed design stage will demonstrate whether up to 250 dwellings is achievable given the constraints of the site and policy requirements.

Highways issues

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

Members during the consideration of 16/01322/OM identified that there are localised highways issues at the junction of London Road and Downham Road junctions with the A1122 and therefore the four arm roundabout proposed was inappropriately located and should be moved nearer to the aforementioned junction to provide benefits to the locality.

With regard to safety matters, the Local Highway Authority has provided accident data for the staggered junction which indicates that the junction is not an accident cluster site. To qualify as a cluster site there must have been 5 collisions within 100m of the junction within the last 3 years. In this case, there have been two injury accidents recorded at the junction – one serious (recorded in December 2016) and one slight (recorded in March 2017). Looking at a longer 6 year period, there have been four serious (2012, 2013, 2014 and 2016) and two slight recorded accidents (2012 and 2017). Comments made that this junction is an accident hotspot cannot be supported on the basis of the evidence provided.

With this in mind, the Local Highway Authority makes no objection to the provision of a new four arm roundabout to the A1122 in its current location. The four arm roundabout is provided to facilitate a loop within the development. Proposed footpath links are indicated in the south west corner of the site leading to London Road with offsite footpath/cycleway improvements. Further improvements are proposed offsite to the north to Nightingale Lane in the form of a shared use footway/cycleway alongside the bridleway and also the creation of a new bridleway linking Nightingale Lane to Rouses Lane. A shared use strategy for Ryston End is also proposed with a 20mph speed limit, kerb realignment and radii decreased at the junction with London Road, shared surfacing and the provision of a 1.2m footpath. Linkages would also be proposed to the north east of the site to link into an

existing footpath network. All highways works would be carried out either within the adopted highway or within land controlled by the Applicant.

The Local Highway Authority raises no objection to the access details subject to conditions. The Public Rights of Way Officer raises no objection to the scheme. Contrary to Third Party assertion, no vehicular access from the site is proposed to Nightingale Lane or Ryston End, neither would the recently claimed Byway running east-west to the north of the site be affected and is shown to be improved in accordance with the Public Rights of Way officers comments.

Whilst Members consider that the roundabout would be more appropriately located further to the west, the applicant does not own land adjacent to the London Road and Downham Road junctions and neither should they be forced to resolve an issue which is not supported with technical accident data. There is no technical or highway safety objection the current location of the roundabout on highways grounds and given this fact, it would be very difficult to defend a refusal on highways grounds on appeal.

Residential Amenity

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

Flood Risk and Sustainable Drainage

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

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

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

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

Based on current information this may require some flexibility with the green space highlighted in the indicative layout. Given that the master plan is illustrative only, this is considered acceptable.

Whilst the IDB continue to object, the LLFA as the statutory consultee on such matters considers that surface water drainage can be conditioned.

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

Archaeology

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

Ecology

Members will recall that a Phase 1 Ecology Survey and Great Crested Newt Survey were submitted with the 15/00135/OM and is still valid with this application. It was established that further survey work was required for bats. Also it was established that Great Crested Newts were located in a pond directly adjacent to the site and were the subject of further survey work. Mitigation is proposed to increase the area of suitable habitat on the application site by creating a 50m buffer of ideal habitat between the edge of the development and Pond 7 as well as undertake precautionary working practices. The full details of such mitigation measures can be secured via condition. It is clear from the illustrative plan that the GCN constraints are being taken into account with the area of open space shown to the west of the site.

Natural England (NE) has no comment on the application other than it is considered that there would be no impact on the Ouse Washes SAC, SPA or Ramsar Sites. However, NE has advised that its standing advice should be used to assess the impact on protected species.

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

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

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

The tests are:

1. There are imperative reasons of overriding public interest (IROPI);
2. There are no satisfactory alternatives; and

3. It would not be detrimental to the maintenance of the population of the species at favourable conservation status.

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

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

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

LPA consideration of the tests:

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

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

S106 matters

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

The site amounts to 13.6ha and thus exceeds the affordable housing threshold set down in Policy CS09 of the Core Strategy 2011. The applicant seeks consent for up to 250 dwellings which means that 50 dwellings would need to be provided split 70/30 between affordable rent (35 units) and shared ownership (15) dwellings. The Applicant has agreed to provide affordable housing and will be covered within the S106 agreement.

With regard to open space, 1.4ha of open space would be required across the development split between 70% amenity space and 30% equipped play areas in accordance with Policy

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F1.4 (pro rata) and Policy DM16 of the Site Allocations and Development Management Policies Plan 2016. The developer has provided a master plan which indicates that of the 4.69ha of green infrastructure proposed with an additional 1.97ha devoted to incidental space/SuDS. The exact details of the open space provision (including allotments) would be secured by the S106 Agreement along with maintenance arrangements.

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

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

Norfolk fire Service require 1 hydrant (on a minimum 90mm main) per 50 dwellings and therefore 5 hydrants can be secured via condition.

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

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

With regard to foul drainage, the comments of the Town Council and Third Parties are noted however during the previous application, determined in April 2017, Anglian Water raised no objection subject to a condition regarding the submission of a foul water drainage strategy.

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

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

The main issues raised by the Town Council and Third Parties have been addressed within the main body of the report. With regard to other comments:

- Devaluation of property – not a material planning consideration;
- Should be required to provide a primary school – the site is an allocation of the development plan and the provision of a primary school is not required. NCC Planning Obligations state that additional primary school places are required for both Nelson Academy and Hillcrest Primary School but this will be addressed through CIL.
- Any future developments proposed and the capacity of the Town will be addressed via the Local Plan Review currently under way.

Crime and Disorder

The application raises no issues regarding crime and disorder. Norfolk Constabulary recommends Secure by Design principles which will be addressed as part of the Reserved Matters application.

Conclusion

This site is allocated for development under Policy F1.4 of the Site Allocations and Development Management Policies Plan 2016. Whilst the proposed development is for 80 more dwellings than previously approved (up to 170 dwellings under 15/00135/OM), it is

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clear that allocation numbers are minimum numbers and it is considered that the site can accommodate (subject to design and appropriate layout) up to 250 dwellings without material harm to the visual amenity of the locality or neighbour amenity. There is no accident data to support highway safety concerns raised by Members, Third Parties and the Town Council about the staggered junction to the west of the site and the Local Highway Authority considers that the location of the roundabout and access details are fully acceptable.

The site is sustainable and has been found “sound” and at these numbers helps the Council maintain its 5 year housing land supply without compromising the character and quality of the locality. All other matters can be adequately conditioned or secured via the S106 Agreement. For these reasons, the proposal is considered acceptable in accordance with the NPPF, NPPG, Policies CS01, CS02, CS04, CS06, CS08, CS09, CS11, CS12 and CS14 of the Core Strategy 2011 and Policies DM1, DM2, DM12, DM15 and DM16 of the Site Allocations and Development Management Policies Plan 2016.

RECOMMENDATION:

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’) shall be obtained from the Local Planning Authority before any development is commenced.
- 1 Reason: To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted to the Local Planning Authority in writing and shall be carried out as approved.
- 2 Reason: To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 3 Condition: Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 Reason: To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 4 Condition: The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the latest such matter to be approved.
- 4 Reason: To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 5 Condition: The development shall comprise of no more than 250 residential units.
- 5 Reason: To define the terms of the consent.
- 6 Condition: The development hereby permitted shall be carried out in accordance with the following approved plans:

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Dwg. YOR.2742_003A– Red line Site boundary
Dwg. 70005080/SK/001 A

- 6 Reason: For the avoidance of doubt and in the interests of proper planning.
- 7 Condition: The details submitted in accordance with Condition 1 shall include full details (in the form of scaled plans and / or written specifications) to illustrate the following: -
- i) Roads, footways (including improvements to the east-west Byway to the north of the site), cycleways, foul and on-site water drainage; claimed
 - ii) Visibility splays;
 - iii) Access arrangements;
 - iv) Parking provision in accordance with adopted standard;
 - vi) Turning areas;
 - vii) Driveway length;
 - viii) Garage size
- 7 Reason: For the avoidance of doubt and to ensure a properly planned development in accordance with the NPPF.
- 8 Condition: No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority. (The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established).
- 8 Reason: To ensure satisfactory development of the site and to ensure estate roads are managed and maintained thereafter to a suitable and safe standard.
- 9 Condition: Development shall not commence until a scheme detailing provision for on site parking for construction workers for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period.
- 9 Reason: To ensure adequate off street parking during construction in the interests of highway safety.
- This also needs to be a pre-commencement condition as it deals with safeguards associated with the construction period of the development.
- 10 Condition: Prior to the commencement of any works a Construction Traffic Management Plan and Access Route which shall incorporate adequate provision for addressing any abnormal wear and tear to the highway shall be submitted to and approved in writing with the Local Planning Authority together with proposals to control and manage construction traffic using the 'Construction Traffic Access Route' and to ensure no other local roads are used by construction traffic.
- 10 Reason: In the interests of maintaining highway efficiency and safety. This also needs to be a pre-commencement condition as it deals with safeguards associated with the construction period of the development.

- 11 Condition: For the duration of the construction period all traffic associated with the construction of the development will comply with the Construction Traffic Management Plan and use only the Construction Traffic Access Route and no other local roads unless approved in writing with the Local Planning Authority.
- 11 Reason: In the interests of maintaining highway efficiency and safety.
- 12 Condition: No works shall commence on site until the details of Wheel Cleaning facilities for construction vehicles have been submitted to and approved in writing by the Local Planning Authority.
- 12 Reason: To prevent extraneous material being deposited on the highway.
- This needs to be a pre-commencement condition given the facilities are associated with the construction process.
- 13 Condition: For the duration of the construction period all traffic associated with the construction of the development permitted will use the approved wheel cleaning facilities provided referred to in Condition 14.
- 13 Reason: To prevent extraneous material being deposited on the highway.
- 14 Condition: Notwithstanding the details indicated on the submitted drawings no works shall commence on site unless otherwise agreed in writing until a detailed scheme for off-site highway improvement works (access roundabout to A1122) as indicated on Drawing number 70005080/SK/001 Rev A has been submitted to and approved in writing by the Local Planning Authority.
- 14 Reason: To ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and to protect the environment of the local highway corridor.
- This also needs to be a pre-commencement condition as these fundamental details need to be properly designed at the front end of the process.
- 15 Condition: Prior to the commencement of any further on-site works, the access roundabout referred to in Condition 14 shall be completed to the written satisfaction of the Local Planning Authority.
- 15 Reason: To ensure that the highway network is adequate to cater for the development proposed in the interests of highway safety in accordance with the NPPF and Policy CS11 of the Core Strategy 2011.
- 16 Condition: Notwithstanding the details indicated on the submitted drawings no works above floor slab level shall commence on site unless otherwise agreed in writing until a detailed scheme for the off-site highway improvement works as listed below:
- 1) Improvements to footway in London Road (Dwg 5080-SK-004 Rev D);
 - 2) Pedestrian Infrastructure Improvements (Dwg 5080-SK-005 Rev C);
 - 3) Shared Use Strategy (Dwg 5080-SK-006 Rev E).
- have been submitted to and approved in writing by the Local Planning Authority.

- 16 Reason: To ensure that the highway improvement works are designed to an appropriate standard in the interest of highway safety and to protect the environment of the local highway corridor.
- 17 Condition: Prior to the first occupation of the development hereby permitted the off-site highway improvement works referred to in Condition 16 shall be completed to the written satisfaction of the Local Planning Authority.
- 17 Reason: To ensure that the highway network is adequate to cater for the development proposed.
- 18 Condition: The development shall not be brought into use until a scheme for the provision of 5 fire hydrants (on a minimum 90mm main) has been implemented in accordance with a scheme that has previously been submitted to and approved in writing by the Local Planning Authority.
- 18 Reason: In order to ensure that water supplies are available in the event of an emergency in accordance with the NPPF.
- 19 Condition: No development shall commence until full details of the foul and surface water drainage arrangements for the site have been submitted to and approved in writing by the Local Planning Authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is brought into use.
- 19 Reason: To ensure that there is a satisfactory means of drainage in accordance with the NPPF.

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

- 20 Condition: Prior to the commencement of development, a detailed construction management plan shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposed timescales and hours of construction and shall also specify the sound power levels of the equipment, their location and proposed mitigation methods to protect residents from noise and dust. The scheme shall be implemented in accordance with the details agreed.
- 20 Reason: To ensure that the amenities of future occupants are safeguarded in accordance with the NPPF. This needs to be a pre-commencement given the need to ensure that potential noise and disturbance to neighbours is fully dealt with at the outset of development
- 21 Condition: Prior to the commencement of any development, a scheme for the provision and implementation of pollution control for the water environment, during both the construction phase and the post-construction phase, which shall include foul/trade effluent and surface water drainage, shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall be constructed in accordance with the approved plans.
- 21 Reason: To ensure a satisfactory method of foul and surface water drainage and to mitigate the increased risk of pollution to the water environment in accordance with the NPPF.

- 22 Condition: Prior to the first occupation of the development hereby approved, details of the method of lighting and extent of illumination to the access roads, footpaths, parking, and circulation areas shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall be implemented as approved prior to the occupation of the development or any phase of the development to which it relates and thereafter maintained and retained as agreed.
- 22 Reason: In the interests of minimising light pollution and to safeguard the amenities of the locality in accordance with the NPPF.
- 23 Condition: No development shall take place until a Written Scheme of Investigation for a programme of archaeological works has been submitted to and approved by the local planning authority in writing. The scheme shall include:
1. An assessment of the significance of heritage assets present
 2. The programme and methodology of site investigation and recording
 3. The programme for post investigation assessment of recovered material
 4. Provision to be made for analysis of the site investigation and recording
 5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 6. Provision to be made for archive deposition of the analysis and records of the site investigation
 7. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 23 Reason: To safeguard archaeological interests in accordance with the principles of the NPPF. This needs to be a pre-commencement condition given the potential impact upon archaeological assets during groundworks/construction.
- 24 Condition: No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under Condition 23.
- 24 Reason: To safeguard archaeological interests in accordance with the principles of the NPPF.
- 25 Condition: The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 23 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- 25 Reason: To safeguard archaeological interests in accordance with the principles of the NPPF.
- 26 Condition: Notwithstanding the details submitted with the application, the details submitted in accordance with Condition 1 shall include an updated tree survey and Arboricultural Implications Assessment and Method Statement showing the following:
- a) a plan indicating the location of and allocating a reference number to each existing tree on the adjacent site (to the west) which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75mm;
 - b) details of the species, diameter, approximate height and condition of each tree on the adjacent site in accordance with the current version of BS:5837, where the

crown spread of that tree falls over the application site and where any tree is located within 15m in distance from the application site.

- 26 Reason: To ensure that the existing trees are properly surveyed and full consideration is made of the need to retain trees in the development of the site in accordance with the NPPF. This needs to be a pre-commencement condition given the potential for trees to be lost during development.
- 27 Condition: Other than in relation to Great Crested Newts and bat populations that are covered under Conditions 28 and 29, the development shall be implemented in strict accordance with the recommendations Cotswold Wildlife Surveys Extended Phase 1 Habitat Survey of Land off Nightingale Lane, Downham Market Ref 1306-CWS-05 dated 13th May 2013 and 7th May 2014.
- 27 Reason: In the interests of ecology on the site in accordance with the NPPF and Policy CS12 of the Core Strategy 2011.
- 28 Condition: Notwithstanding details submitted as part of the 2016 Great Crested Newt Report for land of Nightingale Lane, Downham Market (Ref 1306-CWS-08), prior to commencement of any development (including site clearance), full details of the proposed mitigation and enhancement measures (including a permanent 50m buffer between the development site and Pond 7) shall be submitted to and agreed in writing with the Local Planning Authority. The details shall include mitigation/enhancement measures to minimise the impact of the development upon the Great Crested Newt population both during construction and upon completion and a timetable for the implementation/completion/maintenance of the mitigation/enhancement works. The mitigation/enhancement works shall be completed and maintained in accordance with the agreed details and timetable, other than with the prior written approval of the Local Planning Authority.
- 28 Reason: To protect the extent of the Great Crested Newt population in accordance with central government policy as expressed in the NPPF and Core Strategy policy CS12 of the LDF.
- 29 Condition: Notwithstanding details contained within the Cotswold Wildlife Surveys Extended Phase 1 Habitat Survey of Land off Nightingale Lane, Downham Market Ref 1306-CWS-05 dated 13th May 2013 and 7th May 2014, prior to the commencement of the development hereby permitted a survey to identify the extent of any bat populations on or adjacent to the development site shall be undertaken in accordance with a written survey proposal which shall have been submitted to and approved in writing by the Local Planning Authority prior to the survey taking place.
- 29 Reason: To identify the extent of any bat populations in accordance with the NPPF and NPPG and Policy CS12 of the Core Strategy 2011.
- 30 Condition: The results of the survey required under Condition 29 above shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the development hereby permitted, including site clearance works. The results shall also provide for any mitigation / enhancement measures appropriate to the extent of any bat populations recorded in order to minimise the impact of the development upon the newts both during construction and upon completion. A timetable for the implementation/completion/maintenance of the mitigation / enhancement works shall also be submitted with the results. The mitigation/enhancement works shall be completed and maintained in accordance with

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the agreed details and timetable other than with the prior written approval of the Local Planning Authority or where a different mitigation scheme or timetable scheme is required under any bat license issued by Natural England.

- 30 Reason: To ensure that the impact of the development upon protected species is minimised in accordance with the NPPF, NPPG and Policy CS12 of the Core Strategy 2011.
- 31 Condition: The details required in accordance with Condition 1 shall include the provision of three (3) allotments on site.
- 31 Reason: To secure the provision of allotments in accordance with Policies DM16 and F1.4 of the SADMP Plan 2016.