

Parish:	Upwell	
Proposal:	Residential Development - Construction of 2 self build dwellings	
Location:	Land To The Rear/side of 12 And 25 Orchard Gardens Upwell Norfolk PE14 9EQ	
Applicant:	Mr and Mrs J Spikings	
Case No:	26/00313/O (Outline Application)	
Case Officer:	Helena Su	Date for Determination: 20 April 2026 Extension of Time Expiry Date: 10 July 2026

Reason for Referral to Planning Committee –

The Applicant is Councillor Spikings

Neighbourhood Plan: Yes

Case Summary

The application seeks outline planning permission with all matters reserved, for the construction of two self-build and custom dwellinghouses at land to the south of Orchard Gardens in Upwell. Matters which are reserved for consideration during a 'Reserved Matters' application are: access, scale, landscaping, layout and appearance.

The application site comprises approximately 0.15ha of grade 1 agricultural land to the south of Orchard Gardens in Upwell.

Key Issues

Principle of development

Form and character

Impact on neighbour amenity

Flood risk and drainage

Ecology

Any other matters requiring consideration prior to determination of the application

Recommendation:

A. APPROVE - subject to completion of a s106 to secure self-build and custom and habitat mitigation fee (GIRAMS). If the agreement is not completed within 4 months of the committee resolution, but reasonable progress has been made, delegated authority is granted to the Assistant Director/Planning Control Manager to continue negotiation and complete the agreement and issue the decision.

B. If in the opinion of the Assistant Director/Planning Control Manager no reasonable progress is made to complete the legal agreement within 4 months of the date of the committee resolution, the application is **REFUSED** on the failure to secure self-build and custom dwellings and habitat mitigation fee (GIRAMS) in line with Policies LP19 and LP31 of the Local Plan.

THE APPLICATION

The application seeks outline planning permission, with access, for the construction of two self-build and custom dwellinghouses at land to the south of Orchard Gardens in Upwell. Matters which are reserved for consideration during a 'Reserved Matters' application are: access, scale, landscaping, layout and appearance.

The application site comprises approximately 0.15ha of grade 1 agricultural land to the south of Orchard Gardens in Upwell.

Blunts Garden, a privately maintained woodlands, is located approximately 39m west of the application site. Upwell Conservation Area is located approximately 78m to the north of the application site.

The site is located to the south of Orchard Gardens, which was an allocation (Policy G104.4) for up to 25 dwellings under the previous local plan (Site Allocations and Development Management Document 2016). Orchard Gardens comprises a mix of two-storey dwellings and bungalows.

The site lies within the Neighbourhood Plan area of Upwell Neighbourhood Plan.

APPLICANT/AGENT SUPPORTING CASE

Under the Town and Country Planning Act, applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the King's Lynn and West Norfolk Local Plan and the Upwell Neighbourhood Plan.

A significant material consideration is the Council's current inability to demonstrate a sufficient supply of self-build and custom housebuilding plots, despite its statutory duty under the Self-build and Custom Housebuilding Act 2015 (as amended) to meet identified demand. This ongoing shortfall highlights a clear gap in the delivery of housing choice across the Borough.

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The proposal offers an immediate and measurable contribution toward addressing this deficit. The delivery of two serviced self-build plots would directly assist the Council in meeting its statutory obligations and aligns with the National Planning Policy Framework (NPPF), which requires local planning authorities to support opportunities for individuals seeking to build their own homes.

Beyond its numerical contribution, the scheme would help diversify housing delivery, encourage high-quality bespoke design, and support greater participation in the housing market. Self-build housing can deliver clear social and economic benefits, including locally responsive development and strengthened community cohesion.

In spatial terms, the site is sustainably located and well-related to the existing settlement. Although outside the defined development boundary, it directly adjoins the built form of Upwell and represents a logical and modest extension to the village. The site is within convenient reach of local services and facilities, consistent with the principles of sustainable development. The proposal also accords with the objectives of the neighbourhood plan, including delivering an appropriate housing mix.

Whilst submitted in outline, the indicative layout demonstrates that two dwellings can be comfortably accommodated without overdevelopment. The scale and form of the plots would support dwellings comparable to those nearby, ensuring the character of the area is respected and residential amenity is protected.

It is also material that the Local Planning Authority's professional officers have recommended approval, confirming that the proposal is acceptable in planning terms. Any limited conflict with development plan policy, particularly in respect of the settlement boundary, is outweighed by the clear and demonstrable public benefits, most notably the contribution toward addressing the Council's identified shortfall in self-build provision.

In conclusion, the proposal represents a sustainable and appropriately scaled form of development that will deliver two high-quality self-build plots in a suitable and accessible location. It would have minimal impact on the surrounding area while making a positive contribution toward housing supply, choice, and statutory compliance. The planning balance therefore lies firmly in favour of granting outline planning permission.

PLANNING HISTORY

Relevant to Orchard Garden (Allocation G104.4 under the Site Allocations and Development Management Document 2016) -

15/01496/OM: Application Permitted: 20/06/16 - Outline application with some matters reserved for 25 dwellings consisting of 18 houses and 7 bungalows. Access, road and plot layout committed (COMMITTEE DECISION)

16/01753/RM: Application Permitted: 11/01/17 - Reserved Matters Application: Affordable housing for plots 6,7, 10, 11 and 13

17/00811/RM: Application Permitted: 19/06/17 - Reserved Matters Application for plot 9 (15/01496/OM: Outline application with some matters reserved for 25 dwellings consisting of 18 houses and 7 bungalows. Access, road and plot layout committed)

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17/01328/RM: Application Permitted: 11/08/17 - Reserved Matters Application: Proposed dwelling

15/01496/VAR1A: Application Permitted: 10/10/17 - Modification to Planning Obligation reference LC/S106/16/42 related to planning application reference 15/01496/OM

17/02055/RM: Application Permitted: 20/12/17 - Reserved Matters Application: Proposed dwelling - Plot 9

18/00265/RM: Application Permitted: 03/04/18 - RESERVED MATTERS APPLICATION: Affordable Housing Plot 13.

18/00326/RM: Application Permitted: 17/04/18 - Reserved Matters Application: Construction of 1 dwelling for plot 23

18/00590/RM: Application Permitted: 22/05/18 - Reserved Matters Application for proposed dwelling - Plot 16

18/01217/RM: Application Permitted: 14/09/18 - Reserved matters application for dwelling - Plot 8

18/01229/RM: Application Permitted: 20/09/18 - Reserved matters application for proposed dwelling - Plot 17

18/01487/RM: Application Permitted: 11/10/18 - Reserved Matters Application: Construction of a dwelling for plot No. 15

18/01547/RM: Application Permitted: 08/04/19 - Reserved Matters Application for one dwelling - Plot 23

19/00130/F: Application Permitted: 20/03/19 - Erection of house and detached garage

19/00270/RM: Application Permitted: 08/05/19 - Reserved Matters Application for proposed dwelling - Plot 18

19/00438/RM: Application Permitted: 03/05/19 - RESERVED MATTERS: Erection of dwelling (Plot 19)

19/00472/RM: Application Permitted: 18/06/19 - Reserved Matters Application for plots 21-22

19/01213/F: Application Permitted: 15/08/19 - Construction of house and detached garage.

19/01508/F: Application Permitted: 17/10/19 - Construction of house and detached garage

19/01577/F: Application Permitted: 29/10/19 - Construction of Bungalow and Garage

22/01277/F: Application Permitted: 28/09/23 - Conversion of existing detached garage to ancillary accommodation

24/00443/F: Application Permitted: 01/07/24 - Proposed detached dwelling (COMMITTEE DECISION)

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RESPONSE TO CONSULTATION

Parish Council: OBJECTION

The Upwell Parish Council Planning Group does not support the application for the following reasons:

Proposed site is outside the development area. Upwell Neighbourhood Plan: Environment & Nature Policy EN2 Agricultural Land. New development will only be permitted on Grade 1 Agricultural Land if : (a) There are overriding community benefits resulting from the development. The Upwell Parish Council Planning Group does not regard the provision of these two proposed dwellings as having overriding community benefits by encroaching into Agricultural land. The parcel of land on which the proposed site development lies is still a sizeable piece of land suitable for commercial Agricultural use.

The development site falls within a 'Special Area of Concern ' as designated by the Churchfield & Plawfield Internal Drainage Board, because of surface water drainage concerns. Surface water disposal was a great concern during the construction of the adjoining estate build.

Capacity of physical infrastructure in the public drainage or water systems. It is recognised that the existing mains sewer system serving the adjoining Blunt Estate is currently not fit for purpose, additional dwellings will exasperate any existing problems.

The proposed dwellings will result in the loss of outlook for adjacent dwellings. It is noted that the owner of Number 25 especially submitted a non-material planning variation during construction of his dwelling, to install clear glazing as opposed to obscure glazing to the south facing fenestration, in order to achieve & appreciate views over open countryside. This proposal if approved would now result in Number 25 having an overlooking/loss of privacy issue to one of the proposed dwellings, as a result of the clear glazing being installed.

The proposal of two dwellings being added on as an appendage to the existing estate does not fit well with the existing street scene.

There is no footway lighting within the existing estate, further development beyond the existing estate gives rise for pedestrian safety & security.

Highways Authority: NO OBJECTION

In terms of highway considerations, at this stage, we have no objection to the principle of the development. However, the applicant would need to provide an appropriate design at a reserved matters stage to address the following points in accordance with the adopted standards:

- i) Visibility splays.
- ii) Access
- iii) Parking provision in accordance with adopted standard.

Middle Level Commissioners: NO OBJECTION TO PRINCIPLE OF DEVELOPMENT

Having reviewed the subject documents, Middle Level Commissioners are responsible for managing the Well Creek navigation, while Churchfield and Plawfield Internal Drainage Board are responsible for managing other strategic watercourses locally. There is no MLC or

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IDB infrastructure near the site and neither MLC nor the IDB object to the principle of the outline development.

Anglia Water: PRE-COMMENCEMENT CONDITION REQUESTED FOR USED WATER (FOUL DRAINAGE) NETWORK AND SURFACE WATER DISPOSAL

West Walton WRC is within the acceptance parameters and can accommodate the flows from the proposed growth.

However, Anglian Water objects to a connection to the vacuum sewerage system due to the risk of flooding and pollution, but suggest a pre-commencement condition to overcome this. Furthermore, it is unclear to Anglian Water how the applicant proposes to manage surface water runoff from the development and requests a condition for this too.

Environmental Health & Housing - Environmental Quality: NO OBJECTION

The application is for the construction of 2 dwellings
The applicant has provided a screening assessment indicating no known contamination.
We have reviewed our files and the site is on land not seen developed for the duration of our records. The surrounding landscape is largely agricultural and residential.

No significant potential sources of contamination are identified in our records, or in the information provided by the applicant.

We have no objection regarding contaminated land.

Emergency Planning Officer:

Because of its location in an area that during an extreme flood event could become isolated from safe access and egress routes (ie become a dry island), the Emergency Planning Officer would suggest that the occupiers:

' Should sign up to the Environment Agency flood warning system (0345 988 1188 or www.gov.uk/flood)

' A flood evacuation plan should be prepared (more details at www.gov.uk/flood):

- o This will include actions to take on receipt of the different warning levels.
- o Evacuation procedures eg isolating services and taking valuables etc
- o Evacuation routes

Norfolk Constabulary - Secured by Design: Recommends design features. Full comments are available on public access dated 20 May 2026.

REPRESENTATIONS

TWENTY-TWO OBJECTION comments and **TWO SUPPORT** comments.

OBJECTION comments summarised -

- The land is agricultural and not in the Parish plan for development. If these two plots are approved, it would set precedent for further development will take over the whole field.

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- Existing infrastructure and services in Upwell are current struggling. Electric supply, road network, healthcare provision, water and drainage. Relevant consultees for these services should be consulted on the application.
- Additional traffic on the roads. Existing roads of Orchard Gardens are not designed for extra traffic, construction traffic, emergency vehicles, refuse lorries and delivery vans.
- Change to rural character if development is allowed. Orchard Garden is a small, quiet, semi-rural estate. Development would erode the rural edge and alter the character of the area.
- Impact on neighbours privacy, loss of light, outlook and residential amenity.
- The proposed executive housing would be out of keeping with the scale, character and need of the local community.
- Original 25 plots built here were sold and share legal responsibilities including drainage infrastructure, play area, access and maintenance, shared features.
- Impact on wildlife and Blunts Orchard Trust which is a protected wildlife site.
- Potential protected species impact. The application site includes farmland and field margins that may provide suitable habitat for protected species. Concerned the ecological survey may not fully capture current wildlife activity on the site or include a comprehensive and seasonally appropriate survey.
- Query about the operations of The Hollies (Upwell) Ltd who manage the estate.
- The Applicant is a Councillor. Request the application is determined by Planning Committee than delegated to ensure transparency and maintain public confidence in the planning process.
- Self-build does not override conflict with the development plan.

SUPPORT comments summarised -

- Development would meet the national objective for house building.
- Two additional dwellings would have little harm or impact to wildlife.
- Self-build is an advantage of the proposal.
- Traffic movements would be insignificant.
- Upwell is a key rural location and the plots are in a sustainable location with links to March, Wisbech and surrounding areas. The site is close to local amenities and a school.

KING'S LYNN AND WEST NORFOLK LOCAL PLAN 2021-2040

LP01 - Spatial Strategy and Settlement Hierarchy Policy (Strategic Policy)

LP02 - Residential Development on Windfall Sites (Strategic Policy)

LP03 - Neighbourhood Plans (Strategic Policy)

LP06 - Climate Change (Strategic Policy)

LP14 - Parking Provision in New Development

LP18 - Design & Sustainable Development (Strategic Policy)

LP19 - Environmental Assets - Green Infrastructure, Landscape Character, Biodiversity and Geodiversity (Strategic Policy)

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LP21 - Environment, Design and Amenity (Strategic Policy)

LP25 - Sites in Areas of Flood Risk (Strategic Policy)

LP31 - Custom and Self-Build Housing (Strategic Policy)

NEIGHBOURHOOD PLAN POLICIES

Housing Policy H3: Design

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide 2021

PLANNING CONSIDERATIONS

The main considerations are:

- Principle of development
- Form and character
- Impact on neighbour amenity
- Flood risk and drainage
- Ecology
- Any other matters requiring consideration prior to determination of the application

Principle of Development:

Upwell is classified as a Tier 4 (Key Rural Service Centre) under the settlement hierarchy of policy LP01 of the Local Plan 2021-2040.

The application site adjoins the development boundary of Upwell, which is located to the north of the site.

Policy LP02 of the Local Plan 2021-2040 sets out that *in tier 1-4 settlements, as defined by Policy LP01 - Spatial Strategy and Settlement Hierarchy, proposals for new residential development outside of, but adjoining development boundaries, as defined on the Policies Map, will be supported provided they comply with other relevant policies of the development plan, and meet the criteria set out under Part 1 and 2 of this Policy.*

The development of this area of land adjoining the development boundary accords with criteria part 1 and 2 of LP02. As an Outline application with all matters reserved, details are indicative only. Details at 'Reserved Matters' stage could comply with parts 1a, d, and 2a of the policy. Full impacts regarding impact on character and landscape will be discussed in detail further in the report.

Comments made within representations related to services and the impact of this development have been noted. However, the proposal, for two dwellings, is not considered to result in services becoming overwhelmed. Impacts on local infrastructure (drainage, highway safety etc) could be managed through the submission of details as part of reserved

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matters and through the use of suitably worded conditions. Part 1c, e, f and 2b of the policy is therefore met.

Considering the additional development to the east of the site and comments of the Conservation Team, there is no harm to the setting of the adjoining conservation area in accordance with LP02 part 2d.

The development would not result in Upwell being linked to other settlements in accordance with part 2e.

Part 2b is not applicable because the proposal relates to only two dwellings on a site area of approximately 0.15ha, and therefore no affordable housing contribution is required under Policy LP28. The policy's section on Delivering Affordable Housing on Phased Development states that affordable housing may be sought on windfall sites where the proposal forms part of a larger site which, if developed as a whole, would trigger an affordable housing requirement.

To determine this, the Officer must consider land ownership, planning history, and whether the proposal represents an extension to an existing consented development. Affordable housing may be required if:

- the application site is in the same ownership as adjacent land at the time of the application or within five years of the date planning permission is granted;
- there is evidence of previous applications within the past five years for development of a larger site of which the current site forms a part;
- the site forms an extension to a development granted permission within the last five years that is capable of being implemented, or forms an extension to a development currently under construction.

Planning permission for the development known as Orchard Gardens was granted by the Planning Committee in January 2016 (ref. 15/01496/OM). The applicant was Maxey Ground & Co LLP, and one of the three landowners listed on the Certificate of Ownership had an association with the applicant (a Member of Borough Council). Although the current application shares ownership with adjacent land, the earlier permission was granted more than five years ago.

More recently, planning application 24/00443/F was reported to the Planning Committee due to the applicant's interest in the land. However, given the total site area of the current proposal (approximately 0.156ha) and the number of dwellings involved, it does not constitute phased development under LP28.

Consequently, the proposal falls outside the timeframe set by Policy LP28 and the NPPF for assessing phased development or site subdivision. As a result, the scheme is not required to provide affordable housing.

Lastly, the accessibility of the dwellings required under policy LP30 would be finalised at reserved matters.

Neighbourhood Plan EN2 states that:

New development will only be permitted on Grade 1 agricultural land if:

- a) There are overriding community benefits resulting from the development; or*
- b) There are no reasonably available sites within Upwell Parish appropriate for the proposed development on:*

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- i. Previously developed land;*
- ii. Land not in agricultural use; or*
- iii. Land which is not viable for commercial agricultural use.*

Upwell Parish Council have objected to the proposal as the site comprises approximately 0.15ha of Grade 1 agricultural land and there are no overriding community benefits of the scheme.

The units proposed are identified as 'self-build' dwellings and paragraph 73(b) of the NPPF 2024 seeks opportunities to support small sites to come forward for self-build and custom build housing. Policy LP31 of the Local Plan 2021-2040 supports self-build housebuilding where they would respect the local character and comply with other relevant policies in the plan; and can be controlled by a S106 agreement.

The Borough Council has a legal duty to give suitable permissions to provide enough serviced plots of land to meet the demand for custom and self-build housebuilding in its area. At the current time the Council is experiencing some difficulty in demonstrating that it has met the need for Custom and Self-Build (CSB) due to a change in legislation. However, this does not mean that planning permission should automatically be granted - it is just one of a range of material considerations in assessing a planning application.

The CSB nature of the proposal would therefore provide a moderate contribution to the supply of these types of housing and would provide community benefit, in accordance with policy EN2. Furthermore, the size of the site is a relatively small when considering the plentiful amount of grade 1 quality land in the Parish of Upwell and the Council's administrative boundary.

To conclude, the principle of development would comply with policy LP02 of the Local Plan 2021-2040 and policy EN2 of the Neighbourhood Plan. The self-build and custom nature would also weigh in favour of the proposal.

Form and Character:

Policies LP18, LP19 and LP21 of the Local Plan 2021-2040 seek to ensure that all development in the borough is high quality design and conserve and enhance the amenity of the wider environment, reinforcing the distinctive character areas identified in King's Lynn and West Norfolk Landscape Character Assessment. This involves assessing the scale, height, massing, materials and layout of a development to ensure it responds sensitively and sympathetically to the local setting and pattern of adjacent streets including spaces between buildings through high quality design and use of materials.

Furthermore, LP31 of the Local Plan 2021-2040 supports custom and self-build dwellings where they respect local character and comply with other relevant policies in the plan.

This is reiterated in paragraph 135 of the NPPF which states that planning decisions should ensure development will function well and add to the overall quality of the area for its lifetime, are visually attractive, sympathetic to local character and history, maintain a strong sense of place, optimise the potential of the site, and create safe, inclusive and accessible places.

Finally, paragraph 187 of the NPPF seeks to ensure planning policies and decision should contribute and enhance the natural and local environment by protecting and enhancing

valued landscapes and recognise the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.

Policy H3 of Upwell's Neighbourhood Plan seeks to ensure "all development will be designed to a high quality, reinforcing and complementing local distinctiveness and character, as captured in Appendix A (and any conservation area character statement where relevant). Design which fails to have regard to local context and does not preserve, complement or enhance the character and quality of its immediate area and the wider Parish will not be acceptable. Proposals should therefore be of an appropriate density, height, variety, scale and layout. This is not intended to discourage innovation, which will be welcomed... New residential development plots should not be over-developed and should ensure that the building footprint, including any outbuildings, provides for sufficient amenity space."

As an Outline application, full details related to appearance, scale, layout and landscaping are reserved for later consideration.

Third party representations and the Parish Council however believe that the proposal would be out of keeping, being viewed as an 'appendage' of Orchard Gardens estate.

Indicative plans illustrate two generously sized plots served by a central access, continuing southwards from the existing brick-weaved entrance at Orchard Gardens. The layout identifies the potential positioning of a dwelling and a detached garage on each plot, with garages located to the north and the dwellings set further south. No details regarding the scale of the dwellings are provided at this stage.

The plots lie immediately south of existing two storey houses. While two storey development may integrate well with the established street scene, particularly when read alongside adjoining plots, site specific constraints, especially on Plot 2, suggest that a bungalow or one and a half storey dwelling could be more appropriate. However, this would be subject to details to be submitted at Reserved Matters. The garages are shown indicatively as single-storey structures, which aligns with the character of ancillary buildings elsewhere within Orchard Gardens.

Whilst the proposal would extend built form further south from the Orchard Gardens estate, this is not considered harmful to form and character as there is development in depth along St Peters Road. Views of the site would be from Pinfold Road (east - southeast) and Stonehouse Road (south) and would not appear to be an alien extension to an existing housing estate.

Subject to further details related to scale, appearance, layout and landscaping, the principle of developing this site, which is immediately south of an existing housing estate, would not have a harmful impact on the overall character and appearance of this part of Upwell.

Regarding form and character, insofar as the details provided on the indicative plan, the proposal would not be contrary to policies LP18 and LP21 of the Local Plan 2021-2040 and provision of the NPPF.

Impact on Neighbour Amenity:

The immediate neighbours of the application site are to the north. These neighbours are No 25, No 12, No 10 and No 8 Orchard Gardens.

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At its closest point, the rear elevations of No 8, 10 and 12 would be approximately 16.6m from their south boundary, shared with plot 1. Subject to details related to scale and layout, impacts related to shadowing, overlooking and outlook could be made acceptable.

Although the plans are indicative only, the Officer raised concerns with the Planning Agent regarding the impact that plot 2 would have on No 25, which is located approximately 1.6m from their south boundary.

Along the south elevation of No 25, there are two ground-floor full length windows, serving as secondary windows to an open plan living, kitchen and dining room, with additional windows and bi-fold doors for these rooms also located on the east and west elevations. On the first floor, there is a high-level window on the south elevation which currently serves a study space but was initially approved to serve a bedroom under planning application 19/00130/F, as confirmed through third-party representations and a site visit to the neighbours property. To the west of the high-level window, is a full-length window, joined with the ground floor window, serves the atrium space and staircase. Further to the east is a first-floor balcony, accessed via a bedroom.

The Planning Agent was asked to submit plans to demonstrate that a suitable scheme could be submitted at Reserved Matters which would not result in a detrimental impact to No 25 due to the proximity of No 25's dwellinghouse to the southern boundary, which would be shared with plot 2.

Two sets of indicative plans showing different site layouts to plot 2, with a section plan of No 25's balcony and indicative scale and height of buildings of plot 2 were provided.

The first set of indicative plans showed the siting of the dwelling, approximately 12m south of the lounge/atrium windows with a driveway in between. A small garage was shown positioned within the northeast corner of the plot. The angle view from the balcony was also shown on the indicative plans.

Based on this indicative layout, the Officer remained concerned regarding overlooking from No 25's balcony to the rear garden area of plot 2. Although the indicative plans demonstrated that the dwelling could be sited sufficiently away from the windows on the south elevation to avoid direct conflict, No 25's balcony would have clear views into the rear garden area of Plot 2, resulting in an unacceptable loss of privacy for future occupiers.

A second indicative plan was submitted following this feedback. These plans showed the siting of the dwelling approximately 12m from the lounge/atrium window, with the garage positioned along the north side of the plot, adjacent to No 25's balcony. A section plan showing the garage and neighbours balcony demonstrated that this arrange would provide a degree of screening from views from the balcony, thereby reducing the extent of overlooking.

In addition to the indicative details provided with the second submission, the Officer also considered the 'fallback' position of a 2m fence being erected along the northern boundary of Plot 2 under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) Order 2015. It was also noted that the windows along the southern elevation of No. 25 are not the sole windows serving the relevant habitable rooms, and that views from the balcony could be addressed at Reserved Matters stage.

Taking all these considerations into account, while there were initial concerns regarding the impact of Plot 2 on the amenity of No. 25, it is considered that a scheme could come forward

at Reserved Matters stage that would avoid detrimental impacts on the adjoining neighbours of both Plots 1 and 2 and of those of the occupiers of the proposed plot.

Given the site's position to the south of existing dwellings, some shadowing impact is expected, the extent of which will depend on the detailed design submitted at Reserved Matters stage. Shadowing would be more pronounced during winter months, as is typical, while during the warmer months it is likely that any overshadowing would not significantly affect neighbouring properties.

As noted above, a 2m boundary treatment could be erected along the shared boundary between Plot 2 and No. 25, which would cast some shadow over the secondary windows on No. 25's south flank wall. A dwelling positioned approximately 12 metres from the boundary would result in only a minor degree of shadowing, depending on its scale. A garage located to the north of the site would also produce only limited shadowing. When considered alongside the fact that an outbuilding up to 4 metres in height could be erected 2 metres from the boundary under permitted development rights, also resulting in some overshadowing, the overall loss of sunlight is not considered to be harmful.

In terms of impact to neighbours, and on future occupiers, the development could be made acceptable when considering Policy LP21 of the Local Plan 2021-2040 at Reserved Matters stage.

Flood Risk and Drainage:

Third parties have commented that the village suffers from drainage issues and that Orchard Drove itself experiences low water pressure.

The application site lies within Flood Zone 1 and is identified as part of a "Dry Island." It is not shown to be at risk of flooding as a result of climate change. The development would be classified as a 'more vulnerable' type of development, and the Environment Agency considers flood zone 1 is an appropriate location for this type of development in their standing advice.

It is important for Members to consider that under section 106 of the Water Industry Act 1991, developers have an absolute right to connect to the public sewer, and Anglian Water cannot refuse connection on the grounds of lack of capacity. Under section 94, Anglian Water has a statutory duty to "effectually drain" its area and must upgrade its network as necessary to accommodate new development, with costs recovered through sewerage charges.

Anglian Water (AW) has confirmed that while the receiving Water Recycling Centre has sufficient treatment capacity, the additional foul flows from the development would currently pose "an unacceptable risk of flooding and pollution" due to limitations within the vacuum sewerage system, and that no sustainable point of connection is presently available. Their objection is based on the need for a Pre-Development Enquiry to assess available vacuum pots, pressure capacity, and any downstream upgrade requirements, all of which would be developer funded. They also object to the proposed surface water arrangements, noting that no drainage strategy has been submitted and that surface water cannot be discharged into the vacuum system, with no Anglian Water surface water sewers available in this location.

Notwithstanding these concerns, AW advises that the issues could be addressed through pre-commencement conditions requiring detailed foul and surface water drainage strategies, including any necessary upgrades, prior to occupation. The Internal Drainage Board and

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Middle Level Commissioners similarly request a pre-commencement condition to ensure the impact on their local drains is fully understood before development proceeds.

It is clearly set out in paragraph 201 of the NPPF that the planning system should not duplicate the statutory regime for wastewater, and the Council is entitled to assume that AW will fulfil its statutory duties. The Supreme Court in *Barratt Homes v Welsh Water* confirms the right to connect under section 106 of the Water Industry Act 1991 was held to be immediate and unconditional, with environmental impacts being matters for the undertaker to manage through its statutory duties and the planning system, not by delaying or preventing connection.

The requirement to connect is a technical matter for the Water Industry Act Section 106 application and does not override the developer's statutory rights and is not reasonable or necessary to control through planning. However, the provision of satisfactory foul and surface water drainage details are reasonable, hence the imposition of a pre-commencement condition.

Regarding flood risk and drainage, subject to conditions the proposal would comply with policy LP06, LP18, LP21 and LP25 of the Local Plan 2021-2040 and the NPPF.

Ecology - Biodiversity Net Gain and Norfolk GIRAMS:

Third party comments have raised concerns regarding the impact the proposal would have on local wildlife and Blunts Orchard, which is a privately maintained wildlife site, located approximately 39m to the west of the application site.

Whilst third parties believe Blunts Orchard is a protected site, it has not been adopted nationally by Natural England and is operated by a private trust, The Blunts Trust. The Multi-Agency Geographic Information for the Countryside (MAGIC) map, managed by Natural England, shows that Blunts Orchard is not a protected site but contains priority habitat in the form of woodlands.

The Council's Senior Ecologist has commented that given the limited scale of the proposal, and existing use of the land as arable land, the impact from the development would be limited. Any impact would be as a result of recreational impact from future occupiers. However, Blunts Orchard is currently used by a number of local residents, including dog walkers, utilising the footpath through the orchard, and the addition of an additional two households would have a neutral impact.

The Senior Ecologist commented that other impacts would likely result from lighting which would point in the direction of Blunts Orchard. This, however, could be controlled via condition, requiring a lighting scheme to be submitted for external lighting prior to their installation.

Lastly, whilst third parties believe ecology reports should have formed part of the submission, the Council's Senior Ecologist consider that this would be overly onerous given the site comprises arable land which experiences regular disturbance from being farmed, adjacent to a housing estate, and is a sufficient distance from Blunts Orchard and nearby ditches.

As CSB dwellings, the proposal would be exempt from providing Biodiversity Net Gain (BNG) under Schedule 7A of the Town and Country Planning Act 1990. Notwithstanding exemption from providing 10 per cent biodiversity net gain, the development has a duty to

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deliver gain under the NPPF. Whilst no details have been submitted, this could be submitted as part of the Reserved Matters as part of a landscaping scheme.

Whilst the site falls within the Wash and Brecks Zone of Influences, it is not within close proximity to these zones and therefore a bespoke appropriate assessment is not required. The development proposes a net of two dwellinghouses. As such a mitigation fee of £315.58 per dwelling (from 1 April 2026) would be required to be paid to offset recreational impacts to Zones of Influence (Zols) (a total of £631.16). No payment has been made to offset the recreational impacts to these zones, but contributions would form part of the S106 agreement, should the application be approved.

In conclusion, the small scale extension of the housing estate by the provision of two additional plots, would have limited impact on ecology and would accord with Policy LP19 and LP23 of the Local Plan 2021-2040 and the NPPF.

Other matters requiring consideration prior to the determination of this application:

Highway Safety:

Access is a reserved matter. However, plans show the plots would be accessed via an extension to an existing road at Orchard Drove. At this stage, the Local Highway Authority have no objection to the principle of the development. At Reserved Matters, details relate to visibility splays, access, and parking provision would be required.

Consultee Comments:

No objections were raised by Environmental Quality team, regarding contamination of the land. Furthermore, Norfolk Constabulary (Secured by Design) has provided the applicant with design guidance to support the creation of securely designed dwellings.

Specific comments and issues:

The Applicant is a Borough Councillor. In accordance with the Planning Scheme of Delegation, the application is to be determined by Planning Committee.

Third parties speculate comments that further housing development will occur should this proposal be approved. The recommendation is based on the details submitted as part of this application. Any further application would be assessed separately and on its own merit.

Lastly, there are third party representations related to the shared maintenance of Orchard Gardens under 'The Hollies LTD'. These related to civil matters which are not related to the Planning regime.

CONCLUSION:

The application is for Outline consent, with all matters reserved, for two custom and self-build dwellinghouses to the south of Orchard Gardens, Upwell.

Paragraph 48 of the NPPF and Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

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The application site adjoins the development boundary is considered to be acceptable when considering the criteria of policy LP02.

Whilst the application site comprises 0.15ha of grade 1 agricultural land, the benefits of the scheme, in providing two self-build and custom dwellings, is a community benefit which would outweigh the minor conflict with the neighbourhood plan policy which seeks to protect the loss of the agricultural land.

Furthermore, the objections raised by the Parish Council and third-party representations relate to form and character, impact on neighbour amenities, and local infrastructure, which have either been addressed by consultation comments, or could be addressed by a Reserved Matters application and through the impositions of conditions.

The application is therefore recommended for approval as the scheme would comply with policies LP02, LP06, LP18, LP19 and LP21 of the Local Plan 2021-2040 and the NPPF.

RECOMMENDATION:

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

- 1 Condition: Approval of the details of the means of access, layout, scale, landscaping, and appearance 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: 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.

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- 5 Reason: To ensure that there is a satisfactory means of drainage in accordance with the NPPF and policies LP18 and LP25 of the Local Plan 2021-2040.

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.

B) If in the opinion of the Assistant Director/Planning Control Manager no reasonable progress is made to complete the legal agreement within 4 months of the date of the committee resolution, the application is **REFUSED** on the failure to secure self-build and custom dwellings and habitat mitigation fee (GIRAMS) in line with Policies LP19 and LP31 of the Local Plan.