

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

<b>Parish:</b>	<b>Downham Market</b>	
<b>Proposal:</b>	<b>Outline application for up to 170 dwellings, all matters reserved apart from access</b>	
<b>Location:</b>	<b>Land East And South of Denver Hill Downham Market Norfolk</b>	
<b>Applicant:</b>	<b>The Grosvenor Partnership 3LP</b>	
<b>Case No:</b>	<b>15/00135/OM (Outline Application - Major Development)</b>	
<b>Case Officer:</b>	<b>Mrs H Wood-Handy</b>	<b>Date for Determination:</b> <b>1 May 2015</b> <b>Extension of Time Expiry Date:</b> <b>7 March 2016</b>

**Reason for Referral to Planning Committee** – The Town Council’s recommendation is contrary to the officer’s recommendation and as a result of the level of county contributions.

### 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 outside the Development Boundary for Downham Market and thus countryside as identified by the Local Plan 1998 and the Core Strategy. The site is a preferred allocation for Downham Market under Policy F1.4 of the Site Allocations and Development Management Policies Submission Document 2015.

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

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

The following supporting documents have been submitted within the application:

Design & Access Statement  
Transport Assessment  
Geoenvironmental Assessment  
Flood risk Assessment  
Air Quality Assessment  
Foul drainage & Utilities Assessment  
Soakaway Investigation  
Ecological Assessment  
Great Crested New Survey  
Archaeological Assessment  
S106 Heads of Terms

### **Key Issues**

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

### **Recommendation**

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

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

## **THE APPLICATION**

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

The site is outside the Development Boundary for Downham Market and thus countryside as identified by the Local Plan 1998 and the Core Strategy. The site is a preferred allocation for Downham Market under Policy F1.4 of the Site Allocations and Development Management Policies Submission Document 2015.

The application is in outline form with all matters reserved apart from access. An indicative Master Plan and Framework Plan have been submitted. Amended access details have been submitted during the application process. The indicative Master Plan demonstrates how the site might be developed and indicates a vehicular access in the form of a priority controlled roundabout from the A1122 to the south east corner of the site. Improved pedestrian/cycle links to London Road, Nightingale Lane (PROW) and Ryston End are also indicated improving north/south and east/west linkages. TPO trees would be incorporated into the

development which run parallel on an east/west axis to the A1122 to the south of the site. Nightingale Lane would split the site into two development areas served by separate main streets travelling east/west and north/south. Landscape and open space buffers are indicated along the A1122 and to the east and north of the site which incorporate SuDS features. The scheme indicates that mainly two storey dwellings would be provided with a mix of semi-detached and detached units. Affordable housing would be provided at 20% with a 70/30 social rented/shared ownership split.

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

The following supporting documents have been submitted within the application:

- Design & Access Statement
- Transport Assessment
- Geoenvironmental Assessment
- Flood risk Assessment
- Air Quality Assessment
- Foul drainage & Utilities Assessment
- Soakaway Investigation
- Ecological Assessment – Extended Phase 1 Habitat Survey
- Great Crested New Survey
- Archaeological Assessment
- S106 Heads of Terms

## **SUPPORTING CASE**

1. Planning permission is sought for residential development in the Downham Market South East sector, the site is located outside of the defined settlement boundary in an area designated as countryside. The application is made in outline form with all matters reserved except access. Planning officers have acknowledged that the Council does not maintain a 5 year land supply of deliverable sites and, therefore, paragraphs 49 and, in turn, 14 of the National Planning Policy Framework (2012) have been engaged. The application, therefore, needs to be considered in the context of the presumption in favour of sustainable development.

### Site Description

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

### The Proposals

3. The key features of the proposed development are:
- Up to 170 dwellings that can provide a range of housing types primarily directed towards the provision of accommodation for families.
  - The provision of up to 20% affordable housing (34 units)
  - The site has been identified as a preferred option (Policy F1.4) in the emerging Site Allocations and Development Management Policies pre-submission document (November 2014).

## Planning Considerations

4. Paragraph 14 of the Framework indicates that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole or unless specific Framework policies indicate development should be restricted.

5. The purpose of analysis of the effect of development on the character of the area is to enable the Framework paragraph 14 “adverse impacts”/“benefits” balancing exercise to be undertaken. Even if this assessment were to conclude that there were adverse impacts on the character of the countryside, that conclusion would merely represent an “adverse impact” in respect of the “environmental role” of sustainable development.

6. In order for a recommendation to be made, it is necessary to undertake a balancing exercise with regards to the provisions of the development plan; the advice contained within the Framework (especially in terms of housing land supply and “countryside” policies) and the presumption in favour of sustainable development. Regard must also be given to the presence of other material planning considerations as outlined throughout this statement.

7. There are three dimensions to sustainable development as set out in paragraph 7 of the Framework - namely the economic role; social role and environmental role. These roles must not be considered in isolation and should be taken as mutually dependent and being afforded equal weight.

An economic role - as with any residential development proposal, the construction of 170 dwellings would make a significant and valuable contribution to the economy with regards to supporting the growth of the housing market, which in turn can help support employment. The occupiers of the development will contribute to the vitality and viability of local shops and businesses. The proposals, therefore, deliver on this role.

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

An environmental role - the landscape and visual impact of the proposed development has been carefully considered by Bradley Murphy Design in their Design and Access Statement which supports the planning application who consider that there would be no significant or adverse harm to the local landscape. No statutorily designated landscape areas would be affected by the proposals which include additional landscaping and public open space.

8. Overall, the proposed development is considered to achieve an economic, social and environmental role. The site is located on the edge of Downham Market considered to be a highly sustainable location within walking and cycling distance of the town centre and other key facilities.

## **PLANNING HISTORY**

None recent.

## RESPONSE TO CONSULTATION

**Town Council:** Original comments – **OBJECT** – Members recommend refusal raising significant concerns regarding the capacity of the town to support such a large development in terms of its infrastructure and services. Concerns were also raised as to the well-known drainage issues associated with the site together with the expected numbers of vehicles accessing the A1122 Southern bypass safely. Highlighted the NCC Highways Holding Objection as to the proposed links for pedestrian, cycling and bus service being inadequate. Members of the public have raised additional concerns about safeguarding local wildlife and the impact on the town's infrastructure and services.

Comments on amended plans: **OBJECT** – continue to recommend refusal on the same grounds as previously stated.

**Local Highway Authority (NCC):** Original comments – **HOLDING OBJECTION** on the basis that proposed links for pedestrian and cyclists to local facilities was inadequate, no connections to London Road, no bus service within 400m of the site.

Comments on amended plans: The applicant has entered into discussions with the Local Highway Authority and has now produced a transport mitigation package that addresses the impacts that the development is likely to have on the local transport network. The mitigation package includes:-

1. Improvements to footways in London Road (drawing 5080-SK-004 Rev D)
2. Improvements to Nightingale Lane( Rural Byway 19 and 23) in the form of a shared use footway cycleway alongside the bridleway and linking Nightingale Lane to Rouses Lane ( RB 19/23 to RB 17) with a new bridleway (drawing 5080-SK-005 Rev C)
3. Improvements to Ryston End in the form of traffic calming and footway provision (drawing 5080-SK-006 Rev C)
4. Access of the A1122 Downham Market By-pass via a new roundabout (drawing 5080-SK-002 Rev A)

Provision within the S106 will need to be made for funds for securing part of the new bridleway from RB19/17 of £10,000.

The Travel Plan can be secured via condition.

Recommends **NO OBJECTION** subject to conditions regarding detailed highway specifications, garage size, construction parking, construction management plan, wheel cleaning, scheme for new access roundabout, off site highways works.

**Public Rights of Way (NCC): NO OBJECTION** to the proposal on rights of way issues. Consideration will need to be given to where roads cross the Restricted Byway (Nightingale Lane). Also consideration should be given to formalising and upgrading an unregistered route to the north of the site serving Crow Hall Cottages and beyond to the east and ultimately connecting with RB17 Downham Market to the north east of the site.

**NCC – Planning Obligations: NO OBJECTION** subject to contributions (£3039 per multi bed dwelling and £1520 per multi bed flat) being sought via S106 Agreement regarding education (classroom extension projects at Nelson Academy and Hillcrest Primary School), library contributions (£60 per dwelling = £10, 200) and provision of 4 (90mm min main) fire hydrants.

**Historic Environment Service: OBJECT** on the following grounds:

The application includes an archaeological desk based assessment, which highlights the largely unknown archaeological potential of the proposed development area. In addition, a magnetometer survey of the area has been completed, which highlighted a number of areas of archaeological potential.

We have been in contact with the developer's archaeological consultant, and have consistently advised that an archaeological field evaluation by trial trenching will be required to adequately assess the impact of this development on the historic environment, and maintain that standpoint. Depending on the determination period, it may be possible for the developer to complete the field evaluation and submit a report in advance of a decision being made. This is, however, a gamble that the developer would have to take at their own risk. Our preferred option would be that the developer withdraw their application, and resubmit it with the results of a field evaluation.

Should the application be determined without the results of an archaeological field evaluation, we recommend that it be refused for lack of information on the impact of development on the significance of heritage assets within the proposed development area, in accordance with paragraph 128 of the NPPF.

Comments on amended details: **NO OBJECTION** subject to archaeological investigation and mitigation conditions - The evaluation by trial trenching uncovered a number of significant heritage assets – traces of Iron Age settlement in the north (including possible structural remains), and a probable Bronze Age burial mound with associated secondary activity in the south. While these remains are significant, they are not particularly well preserved, and so their significance is not so great that they need affect the principle or layout of the development.

**NCC – Flood Management Team:** **NO COMMENT** – refers to Standing Advice.

**NCC – Minerals and Waste:** No response to date.

**Natural England: NO OBJECTION** – not likely to have a significant effect on the interest features for which the Ouse Washes Special Area of Conservation (SAC), Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar Site) have been classified. Standing Advice should be used to assess any potential impact on protected species.

**Sport England:** **NO COMMENT.**

**Environment Agency:** Original consultation – **OBJECT** – FRA does not comply with paragraph 9 of the NPPF and fails to create a clear picture of how surface water drainage will be dealt with and how SuDS have been appropriately incorporated into the development proposals.

Comments on amended plans: **NO OBJECTION** subject to condition regarding pollution control

**Internal Drainage Board:** Not within Board's District however request that a condition is imposed regarding surface water drainage.

**Environment & Planning – Planning Policy:**

General accordance with development plan and emerging plans

The adopted Core Strategy Policy CS04 'Downham Market' plans 'at least 390 new houses on greenfield site(s) adjoining the eastern half of the town'. The application is consistent with the Policy in that regard (and also the broad indications of the Key Diagram Downham Market Inset).

The Council's proposed Site Allocations and Development Policies Plan (currently published for comment in advance of submission to examination) would allocate this site for 140 dwellings (see Policy F1.4). Under NPPF para 216 some weight may be given to this plan on the basis of its advanced stage and consistency with the NPPF.

#### Scale of housing proposed

The number of dwellings in this application is 21% higher than in proposed Sites Plan Policy F1.4, but this increase of 30 units is not considered of major significance from a purely strategy point of view. The Core Strategy housing target of 390 for Downham is (as elsewhere) a minimum, and this would be a 7.7% increase on that figure. In terms of strategy alone, this proposal would not be considered a significantly disproportionate level of housing in Downham Market or this sector of it, nor likely to significantly risk the delivery of the larger proposed housing allocation to the north-east of the town.

An increase in the scale of housing would contribute to the aim of the NPPF (para 47) to 'boost significantly' the supply of housing.

Provides comments on the nature of the application and assessment against the policy.

**Environment & Planning – Environmental Quality: NO OBJECTION** regarding contaminated land. **NO OBJECTION** on air quality issues subject to conditions.

**Arboricultural Officer: NO OBJECTION** in principle. However an updated tree survey, implications assessment and arboricultural method statement is required should the proposal reach the next stage. Particular attention will need to be paid to the RPAs of trees next to any proposed road/footways and also the installation of any services that may pass through/near RPAs.

**Central Services – CSNN: NO OBJECTION** subject to conditions regarding foul and surface water drainage, lighting scheme, dust suppression and construction management plan

**Housing Strategy Officer: NO OBJECTION** subject to 20% affordable housing provision amounting to 34 dwellings (70/30 split) of which 24 for rent and 10 for shared ownership.

**Anglian Water: NO OBJECTION** subject to a condition requiring a foul water drainage strategy to be agreed.

**Norfolk Constabulary:** SBD advice given.

## REPRESENTATIONS

Comments on original submission: **37** letters of **OBJECTION** regarding:

- Lack/loss of pedestrian linkages;
- Increased traffic onto A1122 and therefore detrimental to highway safety;
- Lack of public transport;
- Conflict between pedestrians and vehicles where byway intersects with estate road;

- Proposed roundabout too near A10/A1122 roundabout and thus detrimental to highway safety;
- A1122 near London Road/Denver junction currently unsafe and proposal will exacerbate matters;
- Lack infrastructure to support large scale development in Downham Market – school places, doctors, dentists etc.;
- New primary school is need to accommodate new development in Downham Market;
- Car parks full, town already congested;
- Loss of agricultural land;
- Application should not be considered until the site allocation document has been found sound;
- The site allocation amounts to 140 houses and this application proposes 170 houses – 20% = increase;
- Gradual encroachment towards Denver which will result in absorption of the village;
- Covenant on the land - 100 year no build;
- The development is too dense and results in too many houses;
- Should be mainly bungalows to match existing housing development in the area;
- Land higher than surrounding properties which will result in properties having an overbearing impact on existing dwellings;
- Semi-detached houses are not in keeping with the locality;
- Trees and hedgerows support protected species;
- Landscaped area is ripe for future development;
- Many protected species present on the site – queries suitability of ecology report;
- Great crested newts are present on site;
- Loss of view of agricultural land;
- Loss of privacy;
- Devaluation of property;
- Will result in light pollution;
- Land is naturally wet with natural ponds and active spring in the south west corner, results in ponding;
- Main water main lies adjacent to Nightingale Lane and serves Downham Market/Denver;
- Concern that given the nature of the land, the surface water drainage scheme will not be adequate;

King's Lynn Bicycle User Group – Proposal is contrary to Policy CS11 of the Core Strategy and an upgrade of pedestrian and cycle facilities is required.

Comments on Amended plans: **21** letters of **OBJECTION** (including 2 duplicate letters) commenting on the same grounds set out above along with the following additional matters:

- Too many conflicts between vehicles/pedestrians;
- Flood risk issues have not been adequately addressed;
- Developer seeks to ignore local issues;
- Tree planting belt should occur along the boundary with Ravensway (a requirement for the Ravensway development but never enforced);
- Welcome highway improvements along Ryston End but could exacerbate issues for emergency/utility vehicles;
- Access to Ravensway will cause problems;
- Layout requires changing to allow for greater privacy on both sides of the boundary;
- Plenty of brownfield sites to use instead of greenfield site;
- No employment uses to support the scale of development proposed;
- No local centre proposed for the allocation as set out in the options consultation;



- Off-site highways works (footpath to London Rd) encroaches on 3rd party land.
- Impact on wildlife in the locality;
- Removal of vegetation to adjacent to the pedestrian/cycle route to London Road will expose third party boundary;
- Car dependent development, inadequate links to the town;
- Open views of the site from the east and thus highly visible in the landscape;
- Should not be the preferred option – development should be restricted to the north of the town;
- Critique of the supporting documents – conflicting comments;
- Access to preserve Nightingale Lane would be better located to the north west corner linking into Ravensway;
- Unnecessary hedge removal around Nightingale Lane to the south of the site;
- Commercial future proposal compromises the green edge

King's Lynn Bicycle User Group – objects to narrowing/kinking of cycle way to London Road/Denver crossing – less safe than a wide-necked T junction.

## **NATIONAL GUIDANCE**

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

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

## **LDF CORE STRATEGY POLICIES**

**CS04** - Downham Market

**CS01** - Spatial Strategy

**CS02** - The Settlement Hierarchy

**CS06** - Development in Rural Areas

**CS08** - Sustainable Development

**CS09** - Housing Distribution

**CS11** - Transport

**CS12** - Environmental Assets

**CS14** - Infrastructure Provision

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PRE-SUBMISSION DOCUMENT**

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

**DM2** – Development Boundaries

**DM12** - Strategic Road Network

**DM15** – Environment, Design and Amenity

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

## **OTHER GUIDANCE**

Downham Market Town Design Statement

## **PLANNING CONSIDERATIONS**

The main issues are:

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

### **Principle of Development**

The site lies outside the development boundary for Downham Market (a main Town of the Borough as identified by Policy CS02 of the Core Strategy 2011) and is therefore countryside as defined by the King's Lynn and West Norfolk Local Plan 1998 and the Core Strategy 2011. The land is not previously developed land and is therefore a greenfield site.

The site is a proposed allocation under Policy F1.4 of the Site Allocations and Development Management Policies Submission Document January 2015. The allocation proposes "a high quality , well designed development of 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. It is acknowledged that the site is part of a larger area of land in the applicant's ownership which may come forward at some point in the future.

The current proposal is for 170 dwellings, 30 more than proposed via the allocation. However, advice from the Inspector during the recent Local Plan Hearings is that any allocation should specify a minimum number of houses. Given that it has already been determined that the site scores highly from a sustainability perspective and that the site has a net density (26dph) consistent with existing development in the locality, the increase in proposed numbers across the site is acceptable.

The proposal generally conforms with the requirements of Policy F1.4. However, no allotments would be provided. F1.4 e. states "land for allotments, and path improvements, in line with the Borough's Green Infrastructure Strategy as it relates to Downham Market" should be provided. However, the Agent refers to the Green Infrastructure Study (May 2010) which states:

“Policy: to identify a site in Downham Market to support allotment provision and investigate possibilities to provide further allotment provision in wards with insufficient or no provision and high demand.

The Agent argues that the “policy” is to “investigate possibilities to provide further allotment provision....” And that in his opinion, this is not a policy requirement that the Council should seek.

In an explanation of the policy to the Local Plan Inspector, it was stated that there were no local standards set but the National Society of Allotment and Gardeners benchmark of 20 allotment plots per 1000 households (i.e. 20 allotment plots per 2200 people (2.2 people per house) or allotment plot per 200 people) was quoted. On this basis, the proposed development would generate 2 plots (170 dwellings x 2.2 people per dwelling = 374 people). Further, Downham Market Town Council provided information on current allotment numbers of 55 plots at Rouses Lane (land rented from the Downham Market & West Joint Burial Board which will eventually become part of the existing adjacent cemetery). In 2015, 49 out of 55 Plots were let (90% occupancy rate) but as the Town develops and the existing plots are taken back for their intended use, the Town Council will have a desire to provide both replacement and additional allotment plots.

Members will need to decide whether under current circumstances with vacant plots available, there is a need for the applicant to provide two plots.

### **Form and character**

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

The illustrative masterplan and development framework plan indicate that as much of the natural screening including the TPO trees will be retained as possible. Dwellings would be set against the existing backdrop of Ravensway and Denver Hill. Large landscaped areas are indicated to be provided for much of the east boundary 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. Footpath linkages are indicated to the south west corner of the site onto London Road, linking into the existing footpath network of Nightingale Lane and also to the north west corner of the site.

From a form and character perspective, given the existing setting, it is not considered that the development would adversely affect the visual amenity of the locality in accordance with Policy CS08 of the Core Strategy 2011 and Policy DM15 of the Site Allocations and Development Management Policies Submission Document 2015.

No objection has been raised by the Arboricultural Officer subject to a condition regarding an updated tree survey, implications assessment and arboricultural method statement.

## **Highways issues**

The development framework plan indicates that site would be served by a proposed 3 arm roundabout within the south east quadrant of the site off the A1122. The main residential street would kink round to serve the west and also the north. Secondary streets would be located off the main street with green lanes/private drives serving the outer edges of the built development to maintain the rural edge. The main street would cross Nightingale Lane (an existing Rural Byway).

The Local Highway Authority raised no objection to the provision of a new three arm roundabout to the A1122 but originally objected to the scheme on the basis of inadequate facilities for pedestrians and cyclists and poor links to public transport routes. The Applicant's transport consultant has now promoted various improvements to the connectivity of the site. 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. As well as off-site highways works to be secure via conditions, a contribution is proposed to enhance, improve and link into existing Rural Byway provision via the S106 agreement.

The Local Highway Authority raises no objection to the amended access details subject to conditions and the provision of a contribution towards Rural Byway provision. The Public Rights of Way Officer raises no objection to the scheme.

## **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 Submission Document 2015.

## **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).

In accordance with the Lead Local Flood Authority's (Norfolk County Council) Standing Advice, the FRA details a workable solution for managing surface water which includes detention basins, permeable paving and swales. The combined storage of SuDS would ensure that in a 1 in 100 year event plus 30% allowance for climate change, surface water could be attenuated on site and the discharge of surface water offsite to the drain to the east would be maintained at greenfield run-off rates ensuring that flood risk to the site and surrounding areas would not be increased.

The LLFA refer to their standing advice. The EA initially raised an objection and the Agent provided additional detail. The EA has since withdrawn its objection but remains concerned about the drainage design.

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**

The Historic Environment Service (HES) originally objected to the proposal on the basis that insufficient information had been submitted to demonstrate that there would not be an impact on heritage assets. The Applicant has since commissioned trial trenching, the findings of which have been submitted to HES for assessment. The evaluation by trial trenching uncovered a number of significant heritage assets – traces of Iron Age settlement in the north (including possible structural remains), and a probable Bronze Age burial mound with associated secondary activity in the south. While these remains are significant, they are not particularly well preserved, and so their significance is not so great that they need affect the principle or layout of the development. As a result, the proposal is considered acceptable subject to conditions regarding archaeological investigation and mitigation in accordance with the NPPF and Policy CS12 of the Core Strategy 2011.

### **Ecology**

An Extended Phase 1 Ecology Report was submitted by the Agent as part of the original submission. A separate Great Crested Newt (GCN) Survey was also undertaken given the presence of ponds and history of GCN on the site in 2007. The ecology report indicated that no further surveys would be required other than if two of the trees surrounding an existing pond were to be removed. The Tree Survey accompanying the application indicates that these trees are to remain. However, given that there is likelihood that bats are present, a presence/absence survey and mitigation could be suitably conditioned if the trees were to be removed.

With regard to GCN, the original survey indicated that none of the ponds on site or adjacent to the site were suitable habitat. However, in November 2015, a third party contacted the Council to state that a GCN had been caught in the rear garden of a property in Ravensway. The Applicant was notified and it transpired that not all ponds within 500m of the site had been surveyed. The application has been delayed since then so that surveys at the correct time of year March – June could be undertaken. The revised GCN survey states that a total of 14 GCN (including 7 males) were surveyed in Pond 7 (which is a breeding pond) and that no GCNs were found in any of the surrounding ponds. The Ecologist states that the population has survived despite the annual cultivation for arable crops on the application site. The Ecologist states that given that the fields are not suitable habitat for the GCN, a trapping programme is not necessary. Instead, 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.

Natural England considers that there will be no impact on the Ouse Washes SAC, SPA or Ramsar Sites. However advise 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 Submission Document 2015 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 Submission Document 2015.

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.

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 170 dwellings which means that 34 dwellings would need to be provided split 70/30 between affordable rent (24 units) and shared ownership (10) dwellings. The Applicant has agreed to provide affordable housing and will be covered within the S106 agreement.

With regard to open space, 0.95ha of open space would be required across the development split between 70% amenity space and 30% equipped play areas in accordance with Policy F1.4 (pro rata) and Policy DM16 of the Site Allocations and Development Management Policies Submission Document 2015. The developer has provided a master plan which indicates that of the 6.18ha of green infrastructure proposed with an additional 0.9ha devoted to SuDS. The exact details of the open space provision would be secured by the S106 Agreement along with maintenance arrangements.

Education, library and fire hydrant provision is required by Norfolk County Council. The Planning Obligations Team confirms that there is spare capacity at Downham Market Academy but there would be insufficient places at the Primary Schools (Hillcrest Primary School and Nelson Academy). Contributions (£3039 per multi bed house and £1520 per multi bed flat) would therefore be split equally between new class space for the two primary schools. With regard to library provision, a total contribution of £10200 (i.e. £60 per dwelling) would be required towards IT equipment for Downham Market Library. Norfolk Fire Service would require 4 hydrants (on a minimum 90mm main) but these can be secured via condition.

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.

The Applicant would also contribute the sum of £10,000 towards the creation of a section of Rural Byway (with a new bridleway) between Rural Byway 17 and Rural Byway 23.

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

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

Environmental Quality raises no objection on contaminated land or air quality grounds.

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

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

The main comments of the Town Council and third parties have been addressed in the report. Devaluation of property and loss of a view are not material planning considerations. Any future potential uses on the site would be the subject of a separate planning application and would be considered on their own merits.

### **Crime and Disorder**

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

### **CONCLUSION**

The site lies adjacent to Downham Market, a main town of the Borough as identified by Policy CS02 of the Core Strategy 2011. The direction of growth for Downham Market is identified as being to the north east and south east of the town. This site is allocated for development under Policy F1.4 of the Site Allocations and Development Management Policies Submission Document 2015. Whilst the proposed development is for 30 more dwellings than envisaged, it is clear that allocation numbers are minimum numbers. In this case, it is considered that the site can adequately accommodate 170 dwellings without material harm to the visual amenity of the locality, highway safety or neighbour amenity. 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 Submission Document 2015.

### **RECOMMENDATION:**

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

- 1 Condition Approval of the details of the layout, scale, appearance and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority before any development is commenced.
- 1 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted to the Local Planning Authority in writing and shall be carried out as approved.
- 2 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 3 Condition Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.



- 3 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 4 Condition The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the latest such matter to be approved.
- 4 Reason To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 5 Condition The development shall comprise of no more than 170 residential units.
- 5 Reason To define the terms of the consent.
- 6 Condition The development hereby permitted shall be carried out in accordance with the following approved plans:
- Dwg. 14.035.DR.001 A – Red line Site boundary  
Dwg. 14.035.DR.001 Site Location Plan  
Dwg. 70005080/SK/002 A
- 6 Reason For the avoidance of doubt and in the interests of proper planning.
- 7 Condition The details submitted in accordance with Condition 1 shall include full details (in the form of scaled plans and / or written specifications) to illustrate the following: -
- i) Roads, footways, cycleways, foul and on-site water drainage;  
ii) Visibility splays;  
iii) Parking provision in accordance with adopted standard.
- 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 The driveway length in front of the garage(s) shall be at least 6 metres as measured from the garage doors to the highway boundary.
- 9 Reason To ensure parked vehicles do not overhang the adjoining public highway, thereby adversely affecting highway users.
- 10 Condition Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any amendments thereto, garage accommodation on the site shall be provided with minimum internal dimensions measuring 3 metres x 7 metres.

- 10 Reason To minimise the potential for on-street parking and thereby safeguard the interest of safety and convenience of road users.
- 11 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.
- 11 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.

- 12 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.
- 12 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.
- 13 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.
- 13 Reason In the interests of maintaining highway efficiency and safety.
- 14 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.
- 14 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.
- 15 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.
- 15 Reason To prevent extraneous material being deposited on the highway.
- 16 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 the new access roundabout off the A1122 Downham Market By-pass as indicated on Drawing number 70005080-SK-002 Rev A has been submitted to, approved and completed to the written satisfaction of 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.

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.

- 17 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) Improvements to Nightingale Lane (Rural Byway 19 and 23) in the form of a shared use footway/cycleway alongside the bridleway and linking Nightingale Lane to Rouses Lane (RB19/23 to RB17) with a new bridleway (Dwg 5080-SK-005 Rev C);
- 3) Improvements to Ryston End in the form of traffic calming and footway provision (Dwg 5080-SK-006 Rev E) have been submitted to and approved in writing by the Local Planning Authority.

- 17 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.

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

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

- 19 Condition Prior to the occupation of the first dwelling hereby permitted an Interim Travel Plan shall be submitted, approved and signed off by the Local Planning Authority and such a Travel Plan shall accord with Norfolk County Council document 'Guidance Notes for the Submission of a Travel Plan' or be produced using the Workplace Travel Plan Generator Tool.

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

- 20 Condition No part of the development hereby permitted shall be occupied prior to implementation of the Interim Travel Plan referred to in Condition 19 above. During the first year of occupation an Approved Full Travel Plan based on the Interim Travel Plan referred to in Condition 13 shall be submitted to and approved in writing by the Local Planning Authority. The Approved Full Travel Plan shall be implemented in accordance with the timetable and targets contained therein and shall continue to be implemented as long as any part of the development is occupied subject to approved modifications agreed by the Local Planning Authority as part of the annual review.

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

- 21 Condition The development shall not be brought into use until a scheme for the provision of 4 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.

- 21 Reason In order to ensure that water supplies are available in the event of an emergency in accordance with the NPPF.
- 22 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.
- 22 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.

- 23 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.
- 23 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
- 24 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.
- 24 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.
- 25 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.
- 25 Reason In the interests of minimising light pollution and to safeguard the amenities of the locality in accordance with the NPPF.
- 26 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.
- 26 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.
- 27 Condition No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under Condition 26
- 27 Reason To safeguard archaeological interests in accordance with the principles of the NPPF.
- 28 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 26 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- 28 Reason To safeguard archaeological interests in accordance with the principles of the NPPF.
- 29 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.
- 29 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.
- 30 Condition The development shall be implemented in strict accordance with the recommendations Cotswold Wildlife Surveys Extended Phase 1 Habitat Survey of Land off Nightingale Lane, Downham Market Ref 1306-CWS-05 dated 13th May 2013 and 7th May 2014 and received 29th January 2015.
- 30 Reason In the interests of ecology on the site in accordance with the NPPF and Policy CS12 of the Core Strategy 2011.
- 31 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 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.

- 31 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.

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