



Planning Committee
Monday, 7th November, 2022 at 9.30 am
in the Assembly Room, Town Hall, Saturday Market
Place, King's Lynn PE30 5DQ

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

1. **Receipt of Late Correspondence on Applications (Pages 2 - 15)**

To receive the Schedule of Late Correspondence received since the publication of the agenda.

Contact

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**PLANNING COMMITTEE
7 November 2022**

**SUMMARY OF ADDITIONAL CORRESPONDENCE RECEIVED SINCE THE
PUBLICATION OF THE AGENDA AND ERRATA**

Index of Applications p. 6

CORRECTION: All Agenda items should read 9/1 etc and 9/2 etc.

Item 8 Page No. 2 of the additional Agenda/Supplementary Documents

South Wootton Parish Council (SWPC): wish to add their opposition to the proposed Incinerator to be located at Algores Way, Wisbech.

SWPC were astonished to read that the Wisbech Incinerator will be twice the size of the King's Lynn one which we opposed and was rejected by the Inspector at a Public Inquiry in 2013. We raised two main issues in opposition to the development, namely, Health and Safety issues and Traffic congestion issues.

There was and is real concern about the potential adverse Health issues associated with the emissions from Waste Incinerators. Toxic compounds such as dioxins and furans are found in the exhaust gases as well as fine particles of PM10, PM2.5 and smaller. These can cause cardiac and respiratory problems as well as cancer. Heavy metals such as Lead and Mercury are present in the residual ash collected at the bottom of the Incinerator. Although we were told that emissions were constantly monitored and meet required standards, this was not the case as there have been many breaches (at 11 other modern Incinerators) in recent times. SWPC are concerned that air pollution from its 95 metre chimney will be down wind of the triple SSI protected Wash area, Kings Lynn, Sandringham and all their inhabitants including South Wootton residents.

There is a general agreement that the amount of waste going to landfill needs to be reduced but less costly, non-hazardous alternatives should be considered such as Mechanical Biological Treatment and Anaerobic Digestion Plants. These can be built at a fraction of the cost of an Incinerator Plant, especially in the case of the Wisbech Plant which would be twice the size of the rejected Kings Lynn Plant.

SWPC believe that the best practice for waste disposal is via a combination of methods, ie, by reducing waste in the first instance, reusing and recycling where possible and composting appropriate material using non-hazardous systems as mentioned above. There is no place for incineration.

South Wootton Parish Council wishes to join with the residents of Wisbech in opposing the location of the Incinerator close to local schools and other public amenities.

CORRECTIONS/ADDITIONS:

7.6 After the Relevant Representations stage the Council will be asked to submit a Statement of Common Ground and Local Impact Report. It is proposed that this be done jointly with the other host authorities (Cambridgeshire County Council, Fenland District Council and Norfolk County Council) as the local authorities are working closely together. BCKLWN will be able to express their comments.

7.7 It is proposed that if the application is approved by the Secretary of State then the Development Consent Order requirements (conditions) are dealt with by the relevant County Councils as they would normally deal with requirements for this type of application. BCKLWN would be consulted on any requirements that are relevant to our area.

Update to Appendix 3: BCKLWN Draft Relevant Representations:

The following additional comments will be added to the Air Quality section (starting page 18) of Appendix 3: BCKLWN Draft Relevant Representations:

Environmental Quality update following the Air Quality Technical Meeting:

An air quality technical meeting with Medworth CHP Ltd was held on the 31st of October 2022. This summary report provides a brief update of the discussions underway. Ahead of the meeting we were invited to submit technical queries. Background information to these queries is listed within Appendix 3 of BCKLWN Draft Relevant Representations.

The focus of our queries primarily concerns emissions from traffic due to concerns with transport data and that these emissions are combined with those from the stack and reported cumulatively.

Stack emissions will be primarily controlled through the Environment Permit (EP) and we were informed that this application has been submitted to the Environment Agency. Other concerns related to some of the assumptions with the air quality assessment plus clarification on the extent of mitigation being proposed.

These points are set out below:

a) Transport:

In terms of the transport related matters we have not agreed with the negative traffic input values used, as this does not appear to be consistent with Chapter 6. A spreadsheet with the negative values was provided to help explain extent.

Queries were also raised regarding appropriate emission factors used and properly taking into account relative vehicle proportions through appropriate construction traffic management plan. Air quality information is dependent on raw transport data, and which has been agreed to be checked. Where any amendments are required, these can be included within an Air Quality Technical Addendum to the ES.

Controls relating to management of construction traffic as set out within the outline CTMP can be revised that also take account other technical meetings.

b) Air quality modelling / assessment:

In relation to the air quality modelling it was agreed the Air Quality Addendum will consider:

- Correction factor;
- Meteorological data; and,
- Other input parameters (benzene, baseline PEC's etc.).

c) Mitigation:

Quantifying extent of mitigation being proposed by comparison to health damage costs was noted as not raised at earlier consultations (PIER). The concern however is from residual risks that may not have been considered.

We also requested additional information regarding abatement technology. Medworth explained that this additional information is likely to form part of the Best Available Technology (BAT) information in support of application to EA for EP.

In terms of electric vehicle (EV) charging infrastructure it was noted that this is to be secured under Schedule 1 of Draft DCO. Concern was raised regarding future provision EV for waste vehicles.

Workplace Travel Plan: We have received a response which explains that this forms part of DCO Requirement 15 with objectives and targets set out within Outline Operational Travel Plan.

Community Liaison Manager: unclear on role / remit. We have a received a response explaining the position and how this will be secured.

d) Air Quality Monitoring:

Additional air quality monitoring is agreed to be discussed further.

Norfolk County Council's (NCC) comments will be omitted from the Relevant Representations submission as shown in Appendix 3: BCKLWN Draft Relevant Representations. This is because these will be submitted separately by NCC. The Committee Recommendation will therefore need amending as follows:

9 RECOMMENDATION

9.1 Officers consider the comments in Appendix 3 should be submitted to PINS as part of the Relevant Representations consultation. It is recommended:

a) to note that the views expressed about compliance with these statutory duties will not prejudice the council's objection in principle to the application, or any future views; and

b) to endorse the technical Relevant Representations in Appendix 3 for submission to PINS, with the exception of NCC comments as these will be submitted separately by NCC, and with the addition of the Air Quality comments in this late correspondence.

Assistant Director's Comments: SWPC's comments are noted, and have been reported to the committee. The Parish Council will need to submit their comments directly to PINS to ensure they are fully considered. Both the impact on health and SSSI's will be assessed at the Examination by the relevant specialist bodies, rather than by BCKLWN.

It would make sense for BCKLWN to work jointly with the other host authorities on both the Statement of Common Ground and Local Impact Report as it would enable the Councils to pool resources. Additionally, as the County Councils would normally deal with requirements (conditions) for a scheme of this nature, it would be appropriate for them to handle and manage these with input from BCKLWN as necessary.

The Environmental Quality update is noted.

The amendment to the recommendation is considered necessary as NCC's comments will be submitted separately by County.

Item 9/1(a) Page No. 8

Councillor Ryves: Clearly a balance needs to be found between the need to maximise domestic food production and to achieve carbon neutral energy production.

Currently the government indicates that BMV ("best and most versatile") land, which solar farms should be excluded from includes grades 1 to 3a, but the intention is to extend this to include 3b defined as moderate quality agricultural land. In this case, the land use is mainly crop cultivation while the southwestern field contains free range pigs.

A large part of the national agricultural estate falls into grade 3 hence the use of this subdivision.

Grade 3b land is defined as land capable of producing moderate yields of a narrow range of crops, principally:

- cereals and grass
- lower yields of a wider range of crops
- high yields of grass which can be grazed or harvested over most of the year.

In the view of many there is considerable potential to instal significant capacity on building roofs instead of gobbling up productive agricultural land and certainly I would like to see Borough policy to require PV installations where possible on the roofs of all new build.

I would like to draw the committee's attention to the remarks of an experienced councillor, a farmer, whose common sense views we all have the greatest respect for, in the recent housing application in Whittington. In this reference was made to the ability of modern farming techniques to achieve high yields on most land types, including 3b This is a view shared by the government as it seeks to include type 3b land in the definition of BMV. My view is that such farms should be sited in areas of marginal agricultural land, being grades 4 and 5.

As members might know I have repeatedly asked for a policy to be drawn up on solar farm development in the Borough as the high level of subsidies available means that we can expect significant further applications. Included in such a policy should be an independent assessment of the land grade of PV sites put forward.

Of alternative sources of clean energy, solar panels achieve efficiency rates of around 20%. This not surprising as the UK climate is not particularly supportive of solar panels and members will no doubt be aware of the Xlinks scheme to generate 10GW of solar power in Morocco and supply it by underwater cable to the National Grid.

This vast project is driven by the fact that Morocco receives 3 times the hours of sunshine as the UK, and this project alone will supply 8% of the UK power need. This compares with the favourable situation in the UK in respect of wind farms, where the UK is seen as the most favourable location in Europe.

reference

www.theguardian.com/environment/2022/oct/10/ministers-hope-to-ban-solar-projects-from-most-english-farms

Assistant Director's Comments: The application has been considered on the current policy basis that does not preclude the use of Grade 3b land for solar developments.

Item 9/2(b) Page No. 53

Planning Agent's Supporting Statement: This application is for a proposed new dwelling on an infill piece of land within the linear development that exists along Mill Hill Road, Boughton. The site already has planning permission approved for a dwelling (21/01366/RM) and although the current proposal is larger, as can be seen from our drawing no dd22/966/GA5000 it will have minimal impact on the views of the open countryside adjacent to the conservation area, a point indicated by the planning officer and conservation officer as the main reason for refusal.

The point to bear in mind is that the original conservation officer comments dated the 29th July stated the following:

Conservation Team Comments

No objections.

Although this scheme is much larger than the previously approved scheme, it is set well back and the materials are a great improvement and will cause no harm to the character of the conservation area.

The question therefore has to be asked, when further comments were issued on the 01st September stating that the proposal would harm the conservation area, how can this be so, the site proposals have not changed, the site has not changed and the conservation area has not changed so why were second comments issued and why had their opinion completely changed! The main point to bear in mind however, is that if the current approved dwelling was constructed on the site what views of the open countryside would be visible from the road? The simple answer is not very much, a point highlighted in detail by our drawing dd22/966/GA5000, this therefore leads to the conclusion that the application should be approved.

Third Party Comments: Additional Third Party comments have been received as summarised below:

1 representation in SUPPORT –

- New opportunities for a new house with a settled family must be welcomed.
- Building will use local materials such as flint, sympathetic to the conservation area.
- The Conservation Officer conflicting comments.
- There are little or no open views on the bend of Mill Hill Road, so any views is obstructed by a large hedge.
- Do not understand the concern with the red line.

Assistant Director's Comments: The contents of the Planning Agent's supporting statement representation are noted. However, the LPA's position on the points raised in both comments have been covered in the Officer's report to committee. In regard to consistency, the final comments on the application were set out by the Conservation Officer regarding the impact upon the setting of the conservation area. This comment is included in the planning committee report.

Third Party comments are noted, and these issues are discussed within the Committee Report. The provision of a family house would not outweigh the harm identified. Additionally, the Council has in excess of a 5 year housing supply.

Item 9/2(c) Page No. 65

Applicant's Supporting Statement: The recent committee materials have introduced some unexpected comments and objections and the LPA's concerns seem to have significantly changed. Up until this point the reduction of the gap between Denning and Lechmere has consistently been portrayed as the most important and fundamental objection to the proposals, forming the core of the original Conservation Officer's short response, as it was deemed to result in detriment to Marsh Lane and the wider Conservation Area. This has therefore provided the direction of travel for the design team who have worked hard to resolve the issue.

We would like to provide some thoughts and comments in response to the case officer's report.

A short overview of the proposal.

Both long, original elevations of Denning are retained in full, and will be properly restored with correct materials, thus the historic form of the building remains clear and legible. The part of the extension which is apparent on Marsh Lane is now significantly shorter, but has always been deferential in terms of height, depth and setback. It entirely 'masks' the remainder of the extension from the public realm, presenting a 'face' which is entirely aligned with typical, local building form, material and detail.

The remainder of the extension is intended as an exceptionally well built, simple, traditional extension under a duopitch roof, built largely in masonry with timber accents. Its east gable is closely aligned to that of Denning's east end, the only difference being a change in window proportion and location.

Denning itself is very narrow in plan, under a steep roof, with windows of assorted sizes and proportions – some square, some portrait. The extension's proposed east-facing window configuration of two over two 'centre bar' sliding sashes is typical of many properties in the area and is designed to let in as much natural light as possible, and connect the owners to their private garden. New windows facing the street are of similar proportions to those in the existing cottage.

The design team's thoughts and comments on the case officer's report to the planning committee

The case officer raises concerns that the proposed two storey extension 'cannot be considered subservient to the existing dwelling'. In terms of the view from Marsh Lane, this has largely been addressed in the overview above. However, the new build element adds just 3.4m or 16.2% to the overall length of Denning along Marsh Lane.

In terms of the extension as viewed from the privacy of the garden; the proposal takes the form of an 'L' shape. The existing dwelling runs from east to west and measures 16.0m or 18.1m if the curved parapet at the east end of Denning is included. The new extension which runs from north to south measures 13.2m in length and so the existing dwelling will be the dominant view. Furthermore, the extension which has a slightly lower ridge height will appear as a diminishing side wing as the garden rises to the south, such that the southern end of the extension will be 'dug into the ground' by approximately 0.6m. In addition, it can be argued that the simple high-quality hardwood cladding over a generous red brick plinth to the extension's east elevation increases its subservience to the decorative masonry of the original cottage. All these factors will help to create a sense of deference and subservience to the existing building.

The case officer suggests that the extension fails 'to respond sensitively and sympathetically to the design and appearance of the existing dwelling'.

This also is partly addressed in the overview above. However, it is important to point out that the design and appearance of the extension is essentially the same as in the first refused scheme, as viewed from both the streetscene (albeit meaningfully scaled back) and the private garden. In other words, the north, south and east elevations. As there was no objection, criticism or feedback from the case officer or the conservation officer and no comment in the refusal notice, the design team had no reason to implement any changes to the owners' preferred design and appearance. Clearly the latest case officer has taken a different view from the first case officer which seems rather inconsistent.

The extension offers some contrast to the 'host dwelling', but it is argued that it is not harsh or inappropriately contemporary.

The case officer argues that boarding is 'an alien feature of this locality'.

The only boarding viewable from the public realm (albeit obscured to some extent by the mature trees to the east and by the decorative one and a half storey existing curved parapet which it sits behind) is the small first floor extension over the existing single storey element to the eastern end of Denning which measures 2.1m (roadside) x 3.2m.

This has been retained from the first refused application 'as is' and received no comments in any report or the refusal notice.

Boarding, which is fairly extensively used in the Burnhams including Norton, is also used in the immediate vicinity. Lechmere (the neighbouring property to the west of Denning) has a partially boarded western gable end which is clearly visible on Marsh Lane. Indeed, it is the first visible built form as the village is approached along Marsh Lane from the coast road. Furthermore, Lechmere also has partial boarding to both its south and east elevations. There is also some boarding on the extant permission to No5 Marsh Lane, Denning's eastern neighbour. Trowland Cottage (opposite) and Denning's ancillary buildings are fully boarded

Denning as a non-designated heritage asset.

The proposed reason for refusal has introduced the issue of Denning as a non-designated heritage asset, despite this never having been expressed as a contributory factor in the past refusal or as an area of concern in any comments on this application or the previous one from the Conservation Officer. To introduce this at the eleventh hour is both unexpected and inconsistent, and is without

supporting evidence. Furthermore, this is wholly inconsistent with the determination of the previous application. The Committee report itself invites consideration to be afforded to the previous reason for refusal, and it should be noted that it was not refused on the grounds of the impact on Denning as a non-designated heritage asset.

Whilst the Parish Council and Norfolk Coastal Partnership have not commented on this application, it is noted that both parties submitted comments on the previous application and raised no objection.

Assistant Director's Comments: Denning is identified as an important unlisted building within the Burnham Norton Conservation Area Character statement; a non-designated heritage asset for the purposes of the NPPF. In regard to consistency in consideration for both the previous and current applications, it is unfortunate that the previous case officer did not comment on the overall scale and design of the proposed two storey extension and its impact on the character and appearance of the existing dwelling, being a non-designated heritage asset. However, the previous application was refused on grounds of its scale, mass and siting, and whilst only relating to the impact on the gap within the street scene and spacing between buildings, it would not be good planning practice to ignore the fact that, upon further review, that the scale, mass and design would also adversely impact on the existing important unlisted dwelling.

Item 9/2(e) Page No. 88

Assistant Director's comments: The applicant, Mr D Conetta has signed Certificate B on the application form which means that notice has been served on the owners Paktel Telecommunication Systems Limited. However, this conflicts with the location plan which identifies the application site in red and the main hotel in blue which suggests that the applicant has an interest in both sites. As a result, there is doubt about whether the correct certificate has been signed and thus the application invalidly made in accordance with S327A of the Town and Country Planning Act 1990 (as amended). Further, given Members concerns regarding the loss of the site for tourism purposes, it is recommended that the application be **DEFERRED** to allow further investigation into ownership and the future use of the hotel complex.

Item 9/2(d) Page No. 77

CORRECTIONS/ADDITIONS:

'21/01105/RM: Application Permitted (**Delegated decision**): 24/02/22 - Reserved Matters: Construction of 8 Dwellings with access - Vacant Unit 9 Fairfield Road

19/01170/DISC_A: Discharge of Condition final letter: 04/08/20 - Discharge of conditions 5, 6 and 7 of planning permission 19/01170/O: Outline application for demolition of existing building for residential development - Vacant Unit 9 Fairfield Road

08/01604/FM: Application Permitted (**Delegated decision**): 09/09/08 - Construction of 12 dwellings - The Cottage and Factory Fairfield Road.'

Assistant Director's Comments: Additions to clarify decision type are noted.

Item 9/2(f) Page No. 104

Previous Appeal Decision – the appeal decision referred to on Page 104 is attached as an appendix to late correspondence.

Environmental Health CSNN: Given that the consent would be temporary for two years, at the reduced time frames and numbers, via booked time slots which will control maximum numbers of people to 120 people total, it would be agreeable to allow an extended monitoring period in terms of assessing complaints received from neighbouring residents and/or the Parish Council on their behalf.

We still remain concerned about the cumulative impact of the overall Abbey Farm site (specifically external noise from vehicle activities and customers/visitors).

As complaints received about the Tap Days related to noise and odour, we would wish to stipulate further control measures via planning conditions, relating to the prohibition of the playing of any music externally and prohibition of the use of generators; lighting to be directed downwards and extinguished at the end of the Tap Days, limiting the food truck/stall to one per Tap Day and requiring that this shall be sited well within the courtyard to limit odours.

Parking and use of the land by visitors is likely to be the main source of noise impacts on residents, therefore any steps which can be taken by Duration as applicants and/or West Acre Estate as landlords to mitigate these impacts soonest would be welcomed.

The suggestion of demarcation of available land/prevention of use of land close to the boundary, by stakes/rope, signage and/or planting would be of help, although such measures would only increase the separation distance; they will not attenuate noise. If there is any way to bring such measures forward more promptly than the 2 year timeframe for the internal Tap Room planned in the future, these would be welcomed by this team.

Parish Council: West Acre Parish Council welcomes the move towards a compromise on this issue and is grateful to you as the Planning Officer for your efforts in this regard. Notwithstanding the fact that this is a retrospective application for activities ongoing without approval West Acre Parish Council agrees that looking ahead any formal temporary approval will provide an opportunity for ongoing monitoring/recording of negative impacts should they continue to impact local residents, the scheduled monument and the River Nar SSSI.

Of particular concerns on behalf of our residents: -

- The proposed limit on opening hours and modest reduction in capacity will be insufficient to have a meaningful impact;
- The currently proposed compromise makes little mention of the size of the enterprise relative to the village, nor the accumulated effect of this proposal and other developments locally.

More generally the Parrish council remains concerned that there may be little recognition of the village's status in the context of the local plan which states that developments in small villages and hamlets should be limited to small scale employment opportunities and smaller scale tourist facilities. Whilst we recognise the need for economic growth we would hope that the planning authority will continue to ensure that any enterprise is proportionate and appropriate – with a view to protecting residential amenity and in particular in this location the River Nar SSSI and Scheduled Monument.

There have been some incidents recorded by the Environment Agency in relation to the breaching of outfall consents into the River Nar SSSi at the location of this application. The Parish Council would therefore welcome an explanation and reassurance from Natural England or The

Environment Agency or Internal Drainage Board , as to how they have understood the risks in relation to planning applications in West Acre which have the potential to impact the River Nar SSSI.

Natural England: NO OBJECTION - Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes, including the SSSI.

Assistant Director's Comments: CSNN's revised comments are noted. Conditions relating to prohibiting playing external music and the number of food trucks being limited to one at any time have already been recommended within the officer's report to committee on page 145 of the agenda. The LPA does not consider it necessary to impose conditions relating to generators and external lighting given that it is not proposed to use generators and the applicant has confirmed that the food truck will hook up to Brewery's electricity. In regard to external lighting, the proposed use will finish, at the latest 8pm, on each event and as such there will be no requirement for external lighting after that time, this is self-governing.

With reference to controlling parking by way of a restrictive barrier, it is not considered reasonable to do so under the current application for temporary consent. Any issues resulting from parking can be monitored during the two year consented period and if necessary appropriate measures can be put in place in any future planning submissions.

In regard to the Parish Council's additional comments, their concerns are duly noted. However, it must be noted that there is an existing consent for the tap room on site. Noting the Parish Council's concerns for overall expansion at Abbey Farm, each application will be thoroughly assessed on its merits balancing economic growth with impacts on the village and neighbours.

The LPA considers that there would not be any drainage issues associated with the temporary tap days given the nature of the proposal and the limited reliance on the existing drainage system these activities will have. Waste water will be produced from washing cups (and crockery potentially) which will have limited impact. The applicant has confirmed that the food truck will take its waste away and dispose of it off site. During larger events portable toilets are located to the rear of the site for public use and a registered company empty's them avoiding discharging any waste into the local system.

Any breaches of outfall consents into the Nar are a matter for the Environment Agency as enforcing authority.

Appeal Decision

Site visit made on 4 August 2020

by **S Tudhope LLB (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Appeal Ref: APP/V2635/W/20/3248172

Aldorcar, Coaly Lane, Ingoldisthorpe PE31 6NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ged King against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 19/01212/F, dated 15 July 2019, was refused by notice dated 6 September 2019.
 - The development proposed is described as "Redesign of proposed new dwelling from single storey to 1 1/2 storey following grant of planning permissions 15/01952/O & 16/01633/RM".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal form suggests that the appellant is a different person to that which is specified on the application form. The appellant has confirmed that the name specified on the application form is correct. This is reflected in the heading above.
3. The site is located within 3.5km of the Roydon Common and Dersingham Bog Special Area of Conservation (SAC) and Ramsar sites, The Wash and North Norfolk Coast SAC and The Wash Special Protection Area (SPA) and Ramsar site. As a consequence, I am required to assess the implications of the proposal on the conservation objectives of the designated areas. Whilst the matter does not form part of the Council's reason for refusal, the statutory duty derived from the Conservation of Habitats and Species Regulations 2017 (the Regs) is sufficient for this to be elevated to a main issue in the appeal. As it was not included in the Council's reasons for refusal, I have sought and received further comments from the main parties on this issue.

Main Issues

4. The main issues are (i) the effects of the proposal on European sites; and (ii) whether the site would be in a suitable location for a dwelling having regard to the development strategy for the area and accessibility to services and facilities.

Reasons

European Sites

5. Policy DM19 of the Council's Site Allocations and Development Management Policies Plan 2016 (DMP) sets out a suite of measures required to monitor recreational pressure and, if necessary, to mitigate adverse impacts in order to avoid any significant effect on the integrity of any European sites. A financial contribution is required from new housing development to cover monitoring and small-scale mitigation at the European sites.
6. Roydon Common and Dersingham Bog SAC is East Anglia's largest remaining example of a pure acid valley mire grading into dry heathland. It principally includes extensive bog and wet heath. In addition to its internationally important plant communities, it supports important assemblages of birds.
7. The Wash and North Norfolk Coast SAC and The Wash SPA is a vast intertidal embayment which incorporates one of the largest and most important areas of estuarine mudflats, sand banks and salt marsh in Britain. Wintering waterbirds include internationally important numbers of numerous species, notably up to 17,000 passerines (perching songbirds). The site is also of outstanding international importance for passage birds, notably waders.
8. Human activity, in particular dog walking, on, or close to the European sites could result in significant disturbance to their integrity. Having regard to both parties' evidence, and the advice of Natural England (NE), I find that it is not possible to rule out that the appeal scheme, when considered in combination with other plans and projects, is likely to have a significant effect on identified European sites through increased recreational pressure. Consequently, an Appropriate Assessment is required. The Regs contain a precautionary principle that, in the absence of evidence that an adverse effect from any proposal or project on the integrity of a protected site would not occur, planning permission should not be granted.
9. In terms of mitigation, the Council's Natura 2000 Sites Monitoring and Mitigation Strategy 2015 (the Strategy) sets out that this would be achieved through an "interim habitats and mitigation payment". DMP Policy DM19 confirms this payment as £50 per house to cover monitoring/small scale mitigation. It is clear that the appellant has made the interim payment, and Policy DM19 is therefore complied with. The payment was made by way of direct payment to the Council. In this respect the appellant could perhaps reasonably expect that the matter of mitigation has been dealt with. In addition, I have consulted NE and it has not objected to the proposal or this mechanism for securing mitigation.
10. However, I have some reservations about the payment arrangement which does not have the same legal basis as an obligation under Section 106 of the Town and Country Planning Act 1990, whereby the Council would be obliged to use the payment for its intended purpose. In addition, both the Strategy and Policy DM19 indicate that the amount payable will be reviewed following the results of the 'visitor surveys at European sites across Norfolk during 2015 and 2016'. It is now some four years since that survey and I have not been provided with any evidence that the review has been undertaken or, if it has, what the results might be. Further, it is unclear from the evidence exactly what monitoring and or small scale mitigation measures would be funded by this

payment. It is, therefore, unclear from the evidence exactly what the contribution would provide for in this case, and if the payment is still at an appropriate level or not.

11. That is not to suggest that the Council may not spend the contribution appropriately, and it may be that the Council has agreed a specific, audited system to ensure that the monies are directed towards specific projects, in a timely fashion. However, I do not have details of that process. I can imagine a situation where an authority determining a planning application which is also responsible for implementing the mitigation could satisfy itself that a sufficiently robust link exists between effect and mitigation. However, I am the competent authority under the Regs in respect of this appeal and the submitted evidence does not give me the required certainty that the appeal scheme, in combination with other development, would not adversely affect the integrity of the Roydon Common and Dersingham Bog SAC and Ramsar sites, The Wash and North Norfolk Coast SAC and The Wash Special Protection Area SPA and Ramsar site.
12. In light of the above, following Appropriate Assessment and adopting a precautionary approach, I am unable to conclude that likely significant effects on the integrity of the European sites, due to the potential increased disturbance through recreational activity, can be excluded. The proposal would therefore fail to comply with the requirements of the Regs as well as Paragraph 175(a) of the National Planning Policy Framework 2019 (the Framework) which states that where significant harm to biodiversity resulting from a development cannot be adequately mitigated, then planning permission should be refused.

Location

13. Policy CS06 of the King's Lynn and West Norfolk Borough Council Core Strategy 2011 (CS) and DMP Policy DM2, state that land outside development limits will be treated as countryside, where new development will be restricted, and that in rural areas, the countryside will be protected for its intrinsic character and beauty. The site is not allocated for development in the DMP.
14. Although the site is situated between built development, for the purposes of planning policy, the site is located within the designated countryside. The defined development boundary runs along the site's eastern boundary, which I return to later in my decision. Consequently, development at the site is limited to the uses identified as being suitable in rural areas. None of the exceptions set out in Policy DM2 apply in this case. Accordingly, there would be a clear conflict with Policy DM2.
15. I conclude that the proposal would not be in a suitable location for housing with regard to the spatial strategy for the area. As such it would conflict with DM Policy DM2 which does not support the provision of market housing in this location.

Access to services and facilities

16. Whilst there is some disagreement between the parties regarding the level of services available within Ingoldisthorpe, it is nevertheless designated as a Rural Village under CS Policy CS02. It is therefore accepted that there are services in the area that can satisfy limited additional residential development. Dersingham and Snettisham lie close to the south and north of Ingoldisthorpe.

Taken as a group the three villages contain a wide range of services and facilities sufficient to support residents in their day-to-day needs.

17. The Council considers that the nearby services and facilities in Snettisham and other villages are likely to require future occupiers to use private motor vehicles. However, the Council also advised that Ingoldisthorpe is served by good public transport links. I saw on my site visit that there is a bus stop within approximately a one minute walk from the appeal site. There are paved footways that run both directions along Lynn Road from the end of Coaly Lane to both Snettisham and Dersingham. It is approximately a 15 minute walk to the convenience store in Snettisham and the footway is lit for the majority of this journey.
18. Consequently, the occupants of the proposal would be able to access local services either by use of the footway or by bicycle or bus services. This would likely lessen reliance on the use of the private motor vehicle. The development would therefore be well related to an area where small scale development is acceptable in principle and consistent with the aim of developing in accessible and sustainable locations.
19. I conclude that future occupants of the proposed dwelling would have reasonable access to facilities and services. Thus, the proposal would comply with Policy CS06 where it seeks to ensure housing is provided in close proximity to employment, services and other facilities.
20. The proposal would also comply with the Framework where it is concerned with the planning system actively managing patterns of growth in support of promoting sustainable transport objectives, and in locating housing where it will enhance or maintain the vitality of rural communities, amongst other matters.
21. The Council has not identified any harm in relation to the matters covered by Policy CS08, such as high quality design or sustainable construction methods. I therefore find no conflict with this particular policy.

Other Considerations

22. I note the planning permissions that the appellant has directed me to, in respect of effects of those developments on European sites. However, in those applications the competent authority for the purposes of the Regs was the Council. As set out in my reasoning above, I am the competent authority in respect of this appeal, and I am not able to be certain, in this case, that the appeal scheme, in combination with other development, would not adversely affect the integrity of the identified European sites. Therefore, the existence of the referenced permissions does not alter my opinion in respect of this matter.
23. I have been referred to a 2017 planning permission, granted for a place of worship, situated along Coaly Lane beyond the appeal site. As this is a type of development identified under Policy DM2 as being suitable in a rural area, outside of the development boundary, its existence does not offer support to the acceptability of the appeal proposal.
24. Outline planning permission was approved at the site in 2016 for the erection of a single storey dwelling. This was followed by approval of the reserved matters. However, at that time the Council was unable to demonstrate a 5 year supply of deliverable housing sites. This meant that paragraph 14 of the

National Planning Policy Framework 2012 was engaged, and the presumption in favour of sustainable development applied. Permission was granted on that basis. As those permissions have lapsed and the Council now has a 5 year supply of deliverable housing land, I give the expired permissions little weight in this case.

25. There is conflict with the development plan in relation to the appeal site being outside the defined development boundary. However, although classed as open countryside in policy terms, the development boundary runs along the eastern boundary of the site and its character and appearance is not that of open countryside, positioned as it is between a dwelling and a commercial storage site. As such, I consider that the proposed development would not be detrimental to the character of the surrounding area or landscape. The site is well related to the existing built form of the village. Notably, the Council has not identified any harm to the character and appearance of the countryside. I, therefore, consider that the extent of the conflict with the development plan is relatively small, and the proposed development would result in only minor harm to the Council's overall strategy.
26. The proposal for the provision of a single dwelling would make a small contribution to the local housing supply. The benefit in this regard would be very modest, especially as the Council can demonstrate a 5 year supply of deliverable housing land. Nevertheless, housing requirements are set as minima and the development would still deliver an additional home, thereby boosting the supply of housing. Further, the harm that would result from the location of the proposal outside of the development boundary would be minor, and I have found that in relation to access to facilities and services the location of the development would be acceptable.
27. However, the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on European sites, unless an Appropriate Assessment has concluded that there would be no adverse effect on the integrity of the sites. As I cannot be certain, beyond all reasonable scientific doubt, that there would be no adverse effect on the integrity of the identified European sites I must dismiss this appeal.

Conclusion

28. For the reasons given above the appeal is dismissed.

S Tudhope
Inspector