

Borough Council of
**King's Lynn &
West Norfolk**



Regeneration and Development Panel

Agenda

Wednesday, 27th July, 2016
at 6.00 pm

in the

**Committee Suite
King's Court
Chapel Street
King's Lynn
PE30 1EX**



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King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX
Telephone: 01553 616200
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Dear Member

Regeneration and Development Panel

You are invited to attend a meeting of the above-mentioned Panel which will be held on **Wednesday, 27th July, 2016 at 6.00 pm** in the **Committee Suite, King's Court, Chapel Street, King's Lynn** to discuss the business shown below.

Yours sincerely

Chief Executive

AGENDA

1. Apologies for absence

To receive any apologies for absence.

2. Minutes (Pages 6 - 9)

To approve the minutes of the previous meeting.

3. Declarations of Interest

Please indicate if there are any interests which should be declared. A declaration of interest should indicate the nature of the interest (if not already declared on the Register of Interests) and the agenda item to which it relates. If a disclosable pecuniary interest is declared, the Member should withdraw from the room whilst the matter is discussed.

Those declarations apply to all Members present, whether the Member is part of the meeting, attending to speak as a local Member on an item or simply observing the meeting from the public seating area.

4. Urgent Business

To consider any business which, by reason of special circumstances, the

Chairman proposes to accept as urgent under Section 100(b)(4)(b) of the Local Government Act, 1972.

5. Members Present Pursuant to Standing Order 34

Members wishing to speak pursuant to Standing Order 34 should inform the Chairman of their intention to do so and on what items they wish to be heard before the meeting commences. Any Member attending the meeting under Standing Order 34 will only be permitted to speak on those items which have been previously notified to the Chairman.

6. Chairman's Correspondence

If any.

7. Update on 5 year land supply (Pages 10 - 30)

As you are aware the Council has been keenly awaiting a decision on the proposal for a care home, housing with care facilities and 70 new homes in the countryside, on land off School Road, Heacham, following the Public Inquiry held in May. One of the reasons this decision is so important is because it deals with the issue of the 5 year supply of deliverable housing sites in detail, and therefore will form a basis for future housing decisions across the Borough, certainly in the short-mid-term.

The appeal was dismissed, and the Council was deemed to have in excess of a 5 year supply (5.81 years supply). This means that decisions taken with regards to housing proposals will rely on the local policies of the Development Plan, which are considered to be up to date. In other words the normal local policy situation has been confirmed and applies (this has been in place since 19 April 2016, and it was in place before August 2015).

The Appeal Decision is attached.

8. CIL Update (Page 31)

To receive a verbal update from the LDF Manager.

9. Terms of Reference - Custom Build Policy Development Task Group (Pages 32 - 34)

10. Work Programme (Pages 35 - 36)

11. Date of the next meeting

To note that the next meeting of the Regeneration & Development Panel is scheduled to take place on **Tuesday 30th August 2016** at **6.00pm** in the Committee Suite, King's Court, Chapel Street, King's Lynn, Norfolk, PE30 1EX.

To:

Regeneration and Development Panel: Miss L Bambridge, Mrs S Buck, Mrs J Collingham, C Crofts, P Gidney (Chairman), I Gourlay, M Chenery of Horsbrugh, M Howland, P Kunes, P Rochford (Vice-Chairman), M Shorting and Mrs E Watson

Portfolio Holders:

Councillor R Blunt – Portfolio Holder for Development – Items 7, 8 and 9

Appropriate Officers:

Stuart Ashworth – Assistant Director
Chris Bamfield – Executive Director
Alan Gomm – LDF Manager – items 7,8 and 9
Duncan Hall – Housing Services Manager – item 9
Ray Harding – Chief Executive

BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK

REGENERATION AND DEVELOPMENT PANEL

Minutes from the Meeting of the Regeneration and Development Panel held on Wednesday, 13th July, 2016 at 6.00 pm in the King's Lynn Innovation Centre, Nar Ouse Way, King's Lynn

PRESENT: P Gidney (Chairman)
Councillors Mrs S Buck, Mrs J Collingham, C Crofts, M Chenery of Horsbrugh, M Howland, P Kunes, P Rochford and Mrs E Watson

Portfolio Holders: R Blunt and B Long

Officers: S Ashworth, C Bamfield, R Harding, O Paparega

RD16: APOLOGIES FOR ABSENCE

There were no apologies for absence.

RD17: MINUTES

RESOLVED: The Minutes from the Regeneration and Development Panel meeting held on 1 June 2016 were agreed as a correct record.

RD18: DECLARATIONS OF INTEREST

There was none.

RD19: URGENT BUSINESS

There was none.

RD20: MEMBERS PRESENT PURSUANT TO STANDING ORDER 34

There was no Members present under Standing Order 34.

RD21: CHAIRMAN'S CORRESPONDENCE

There was none.

RD22: UPDATE ON 5 YEAR LAND SUPPLY

Assistant Director, S Ashworth reported that there had still not been any decision issued on the Heacham Planning Appeal which would form a ruling on the Council's 5 year land supply. He confirmed that once received, the decision would ensure the Council knew where it stood in relation to the 5 year land supply, and if the Appeal was allowed the Council would revert to its March position in relation to planning. It would also mean

In response to Panel questions Councillor Blunt acknowledged that despite having been present during the Appeal and being confident with the quality and depth of evidence presented by the Council, the lack of Care Home provision in the Borough may sway the Inspector's decision. Members expressed concern that the Appeal decision would be a deciding factor rather than the Local Plan process.

It was noted that once the Decision was received and considered by officers, it would be presented to the Panel.

RD23: ENTERPRISE ZONE UPDATE

The Regeneration and Economic Development Manager provided the Panel with the background to the Enterprise Zone and an update. He confirmed the Council had received interest from both local businesses wishing to move to the Zone and businesses moving from outside the Borough wishing to move to it. The existence of the new KLIC on the site helped to show that it wasn't an empty site. In response to a question on the type of company that was interested in moving to the Zone, it was explained that they included such things as smart technology.

The Chairman thanked the Regeneration and Economic Development Manager for his presentation and invited questions and comments from the Panel.

RESOLVED: The update was noted.

RD24: KING'S LYNN INNOVATION CENTRE UPDATE

The Panel had received a tour of the new Innovation Centre prior to the meeting which was discussed.

The Chairman expressed concern that the KLIC did not have its own website, so that on googling the term the building and its detail did not come to the forefront. The Regeneration and Economic Development Manager explained that the Centre was owned and run by NWES who ran 20 centres across the region, none of which had their own web site.

Questions were asked about

- the catering arrangements for meetings and businesses on site to which it was explained that catering was brought in as required.
- The building maintenance responsibilities which were the responsibilities of NWES, although they would still be snagging at this stage.
- The role of the Council as lenders on the building in its running arrangements, to which it was clarified that it was solely the role of NWES.

RESOLVED: That a Director from NWES be invited to come to a future meeting the Panel to discuss NWES and the KLIC.

RD25: CIF BUS ROUTE

The Regeneration and Economic Development Manager informed Members that he had held discussions with the County Council officers to explain that over the coming months a Waterfront Masterplan was being prepared, and any options regarding the future of the route would be considered at that time. Any updates would be brought to the Panel for consideration and comment. In response to comments made he also confirmed that other members would be involved in the consultation.

A discussion ensued on bus trips coming into King's Lynn and the parking arrangements for drop off and pick ups which were generally either at the bus station or Austin Fields. The fact that Eastons coach trips did not come to King's Lynn would be investigated and reported back upon to a future meeting.

The Regeneration and Economic Development Manager was also asked if any work had been carried out on the types of buses present in the town and how they affected traffic flow, to which he confirmed he would not have done but would ascertain from County Council colleagues if any such work had been carried out.

RESOLVED: That updates be brought on the Waterfront Masterplan and CIF road as available.

RD26: **ONE PUBLIC ESTATE FUNDING BID**

The Executive Director, Commercial Services presented the report which detailed Norfolk wide funding proposals to be submitted to Cabinet Office. If successful the funding would cover feasibility design and planning costs to take forward the proposals.

The Panel was informed that the Government had launched the One Public Estate programme with the aim of bringing together all public sector bodies within the locality so that data on assets could be pooled together, which could assist with the development of joint plans to share projects and release supplies, land and buildings for other use.

The Chairman thanked the Executive Director, Commercial Services for his report.

RESOLVED: The Panel supported the proposed funding bid.

RD27: **WORK PROGRAMME**

Members of the Panel were encouraged to submit items for consideration to the Chairman.

It was agreed that an invitation be extended to an NWES Director to discuss the KLIC.

Waterfront Masterplan update when available and an update to day trip bus activity.

RESOLVED: The Panels Work Programme was noted with the additions.

RD28: **DATE OF THE NEXT MEETING**

The next meeting of the Regeneration and Development Panel was scheduled to take place on Wednesday 27th July 2016 at 6.00pm in the Committee Suite, King's Court, Chapel Street, King's Lynn.

The meeting closed at 6.45 pm

Appeal Decision

Inquiry held on 17-24 May 2016

Accompanied site visit made on 19 May 2016

by David Spencer BA(Hons) DipTP MRTPI

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

Decision date: 14 July 2016

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

Land off School Road, Heacham, Norfolk.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Andrew Savage on behalf of Broadland Housing Association and Townsfolk Ltd against the decision of the Borough Council of King's Lynn and West Norfolk.
 - The application Ref 13/01541/OM, dated 19 October 2013, was refused by notice dated 5 February 2014.
 - The development proposed is the construction of a care home, housing with care facilities and 70 new homes. New allotments, associated landscaping, SUDS ponds and associated works including an electricity substation and a pumping station are also proposed. Access to be off School Road.
 - This decision supersedes that issued on 27 February 2015. That decision on the appeal was quashed by order of the High Court.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. In addition to the accompanied site visit, I also made two unaccompanied site visits, the first on 16 May 2016 to visit School Road and all of the publically accessible viewpoints contained in the appellants landscape evidence and the second on the afternoon [14:30–15:30] of 26 May 2016 to observe highway conditions at the junction of School Road, Lords Lane and The Broadway.
3. The application was submitted in outline with all matters reserved except for access. As such detailed matters of layout, scale, appearance and landscaping are not before me. However, the appellant has submitted an indicative site layout plan¹ and various illustrative materials relating to such matters as a landscaping. For the avoidance of doubt and based on the evidence before me including that presented at the Inquiry I have determined the appeal proposal as being for 70 new dwellings (Class C3), 60 'housing with care' units which could be independently occupied by over 55's with care needs (to purchase or rent) within a complex which provides communal and care facilities (Class C3) and a 60 bed care home with an emphasis on high dependency dementia care (Class C2)².

¹ Drawing 110 Rev A02

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

4. Planning obligations were submitted at the inquiry in the form of a draft Section 106 agreement (S106) and a draft Unilateral Undertaking (UU). A signed and executed S106 was submitted after the inquiry had closed, covering affordable housing, open space, protected habitat mitigation and contributions towards education and library provision. These proposed contributions would need to be assessed against the statutory tests set out in the Community Infrastructure Levy (CIL) Regulations 2010.
5. A signed and dated statement of common of ground (SOCG) was presented at the start of the Inquiry³ which establishes that all the main issues remain to be determined afresh in this decision. However, following the submission of viability rebuttal evidence⁴ from the Local Planning Authority (LPA) a subsequent SOCG⁵ was submitted and the housing mix of the appeal proposal amended to address the LPA's concerns. I do not consider the change in the housing mix fundamentally alters the scheme such that anyone would be prejudiced by me determining the proposal on this revised basis. Additionally, whilst the subsequent SOCG confirms that there is a need for the type of specialist elderly accommodation proposed, the scale of that need and how it could be addressed remain in dispute.
6. The availability of up-to-date housing data in a transparent format was a particular issue for the Inquiry reflecting the following: (a) no published local annual monitoring report for the period December 2014 – April 2016; (b) evidence of the LPA's assertion that it had a five year housing land supply being first presented in its proofs of evidence and appendices (April 2016); and (c) evidence being clarified and presented during the Inquiry forum.
7. Consequently, both parties submitted iterative material both during and after the close of the Inquiry on aspects of the housing land supply. On the matter of lapse rates, material was submitted after the Inquiry⁶ with the primary purpose to check the appellant's assessment of the data provided by the LPA. However, it is clear from the LPA's final submission of 27 May 2016 that there is now reference to another (new) set of figures. I agree with the appellant that it is unjust that within a week of having provided the appellant with one dataset on which to assess lapse rates, another has been referred to. Accordingly, I have not taken the LPA's latest dataset and lapse rate calculations into consideration in determining this appeal.

Main Issues

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

³ Document 8

⁴ Document 3

⁵ Document 14

⁶ Documents 43 and 44.

Reasons

Location and Planning Policy

9. The site is located on the edge of Heacham a large village with a range of services and facilities. Heacham is identified in the 2011 Core Strategy⁷ as a key rural service centre. It is situated a few miles south of the main town of Hunstanton. These communities are connected by the main A149 coast road which largely passes to the east of Heacham. The road generally forms the boundary between a coastal landscape and the gentle escarpment at the edge of the Norfolk Coast Area of Outstanding Natural Beauty (AONB). The appeal site lies outside of the defined 'built environment' for Heacham. The eastern edge of the site adjoins the AONB along its boundary with the A149 road.
10. The development plan for the area comprises of the 2011 Core Strategy and those saved policies of the 1998 Local Plan⁸. With regard to the location and scale of the appeal proposal it is clear that the spatial vision in the Core Strategy in articulating a 'vision for places' refers to an appropriate scale of development in key rural service centres and generally only modest scales of new development in rural areas. In order to secure sustainable patterns of development to deliver the vision the Core Strategy at Policy CS01 states that at least 2,880 new homes will be delivered at key rural service centres.
11. Policy CS02 identifies Heacham as one of 20 key rural service centres for limited growth of a scale and nature appropriate to secure the sustainability of each settlement. The distribution of housing is further considered in Policies CS06 and CS09 which state that the minimum of 2,880 new homes for key rural service centres will comprise of allocations for 660 new homes. The detail of this is being determined through the current preparation of the Site Allocations and Development Management Policies (SADMP) document⁹.
12. Land allocations for at least 66 dwellings in Heacham are contained in the SADMP on 2 sites. Planning permission has been granted on site G47.1 for 69 units in addition to a windfall supply of 19 dwellings. Heacham, as one of the largest key rural service centres, is to accommodate approximately double the average allocation if the 660 total was spread evenly across all key rural service centres¹⁰. I consider the LPA's explanation¹¹ of this proportional approach to appropriately explain Heacham's higher housing figure.
13. Additionally Core Strategy Policy CS09 requires housing proposals to take account of the need identified in the latest Strategic Housing Market Assessment (SHMA) (including the needs of elderly people and the disabled) and a target of 20% affordable housing on qualifying sites subject to dynamic viability testing. Core Strategy Policies CS01 and CS12 also seek to protect the locally distinctive countryside in the Borough for its many attributes including, amongst other things, landscape setting.

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

⁸ King's Lynn & West Norfolk Local Plan Adopted November 1998

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

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

¹¹ Document 12

14. Local Plan Policy 8/1 also applies in that it informs the adopted Policies Map and allows for individual and small groups of dwellings in settled or built-up areas of villages. By virtue of being in the countryside outside of these areas the appeal proposal is also in conflict with the Local Plan policy.
15. Both development plan documents pre-date the National Planning Policy Framework (NPPF) and as such paragraph 215 of the NPPF requires a judgment to be made on their consistency with the NPPF to inform the weight to be given to them. In my view the policies from the LPA's decision in their various forms seek to deliver housing growth whilst also reconciling the competing aims of supporting the vitality of rural communities and conserving the environmental resource of the countryside. The policies are therefore consistent with the balanced approach to sustainable development encapsulated in the NPPF.
16. Additionally, the LPA is making good progress on its Site Allocations and Development Management Policies document (the SADMP) which seeks, amongst other things, to allocate sites to contribute towards delivery of the Core Strategy. Additionally, Policy DM2 reaffirms the principle of settlement boundaries and seeks to restrict development in the countryside outside of these boundaries. The SADMP is in the latter stages of its examination, with hearings having been held and main modifications being consulted on. Therefore, having regard to paragraph 216 in Annex 1 of the NPPF, as a starting point, I give significant weight to relevant policies in the SADMP.
17. The NPPF at paragraph 47 seeks to ensure that the supply of housing is boosted significantly, and requires local planning authorities to identify a deliverable supply of sites sufficient to provide 5 years' worth of housing to meet the objectively assessed need. If the authority cannot do so then policies for the supply of housing should not be considered to be up to date. I consider that all of the policies set out above, on which the LPA relies, are relevant to the supply of housing¹².
18. On this point I note that an earlier appeal decision at Clenchwarton found that there was not a five year housing land supply in the Borough¹³. It is clear from the evidence before me that the Clenchwarton decision has influenced how subsequent housing proposals have been assessed. However, 16 months have now passed since that decision during which time circumstances have materially changed. Consequently, with the appeal before me I am required to take stock and test whether, cumulatively, events in the intervening period have substantively changed the housing land supply landscape.

Five Year Housing Land Supply

Requirement

19. The Core Strategy housing requirement is expressed as a minimum of 660 dwellings per annum over the plan period. The figure is based from the now revoked Regional Spatial Strategy for the East of England (the RSS). I note this housing requirement includes an element of 'uplift' (10%) and is not that far adrift from recent outputs on housing need¹⁴. Nonetheless the NPPF seeks a

¹² With reference (principally paragraphs 33 and 47) to Document 41

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

¹⁴ SHMA 2014 and NMSS Report 2015

- housing requirement that is grounded in evidence of the full objectively assessed need (FOAN)¹⁵, as has been adjudicated elsewhere¹⁶.
20. In contrast to the Clenchwarton appeal the LPA is now in receipt of evidence of the FOAN which is expressed as a range of 680-710 dwellings per annum. It was confirmed to me that the FOAN takes the demographic baseline from the 2014 household projections and has applied a Planning Practice Guidance¹⁷ (PPG) compliant methodology in terms of adjustments for economic growth and affordability. As such the LPA's up-to-date FOAN appears to be robust in terms of identifying the unfulfilled need.
21. The LPA submitted that there was no certainty that the FOAN would be not need to be constrained downwards when the matter is tested as part of an imminent Local Plan review. However, the difference between the Core Strategy and FOAN is 50 dwellings per annum (7.5% of the Core Strategy requirement). In my view this can reasonably be described as marginal. Notwithstanding matters of protected habitats, flood risk and agricultural land quality, it was put to me that the Borough has the 12th largest land area in England. I therefore share the appellant's view that there is very little compelling evidence at this stage to demonstrate that the marginal uplift represented by the FOAN would need to be appreciably constrained. In any event I do not consider it appropriate for a Section 78 appeal to undertake the more rounded assessment similar to a Local Plan process to arrive at a constrained housing requirement figure.
22. I am mindful of the PPG¹⁸ and ministerial advice¹⁹ on the weight to be given to emerging assessments of need particularly where they have not been moderated against relevant constraints. However, the Council's Cabinet has endorsed the FOAN, which represents a degree of scrutiny (and acceptance of the FOAN to feed into the imminent Local Plan review). Taking the specific local circumstances before me the 2011 Core Strategy requirement stems from the now dated and constrained²⁰ RSS. It is not based on an up-to-date consideration of the FOAN. Accordingly, I consider the FOAN of 710 dwellings per annum to be the more robust basis when considering the housing requirement for the purposes of assessing the five year supply.
23. I am satisfied that the methodology of the FOAN takes account of any housing backlog up to the point of its base date. Accordingly, in considering the shortfall, a backlog of 825 dwellings has accrued against the FOAN requirement since the 2013/14 monitoring year²¹. There is no disagreement that any shortfall should be addressed within the five year period (the *Sedgefield* method) which would result in a requirement of 4,375 dwellings.
24. To secure the NPPF objective of 'delivering a wide choice of high quality homes' an additional buffer should be added to the requirement to ensure choice and competition. The LPA considers its performance should be assessed against an aggregated measure which shows that it has delivered 90% of its development plan requirement over a 15 year period thus smoothing out the boom and

¹⁵ NPPF, paragraph 47, in particular the first bullet point.

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

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

¹⁸ Planning Practice Guidance Paragraphs:3-030-20140306 & 3-045-20141006

¹⁹ Ministerial Letter to PINS dated 19 December 2014

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

²¹ Table 5, p15 Mr Jermany Proof of Evidence

recessionary periods. The LPA has submitted an appeal decision from 2014²² to support its cumulative approach. However, that is only one decision and relates to an area of significant growth with seemingly few direct parallels to the circumstances in the Borough. Accordingly, I attach little weight to it.

25. In contrast, an annualised approach to performance reveals that delivery has not met the development plan requirement in any of the last 8 years. Matters do not improve when considering recent performance against the emerging FOAN. There are numerous appeal decisions before me which have applied the annualised approach advocated by the appellant. I share their broad conclusions in finding that 8 years is an appropriately robust period of time²³ to gauge performance. Accordingly, I find that there has been a record of persistent under delivery and as such a 20% buffer should be applied, thus raising the requirement to 5,250 dwellings.

Supply

26. Since the Clenchwarton appeal decision the LPA cannot be regarded as having been complacent in its efforts to boost housing supply. This has included notable progress on the housing site allocations in the SADMP. Additionally, the LPA, in the face of appreciable local concern, has actively encouraged housing developments in sustainable locations (including sites considered as part of the SADMP process) and has proactively deployed resources to deal with the resultant spike in planning applications.
27. The activities of the LPA mean that the starting point for the housing supply as of April 2016 includes 1,877 units on sites with planning permission and 627 units on sites with a resolution to grant permission subject to planning obligations being signed off. I deal with lapse rates below but, in principle, I am not persuaded these two components of supply should be adjusted downwards in terms of deliverability having regard to the evidence before me in the LPA's trajectory and the relevant tests in the NPPF²⁴ and PPG²⁵.
28. Given the geographical size of the Borough, the range of settlements, the potential sources of sites and past trends, it is appropriate that an allowance should be made for delivery on windfall sites in years 4 and 5 of the trajectory. Such an approach would reasonably avoid double-counting and I consider the LPA's discount to windfall supply to reasonably reflect that past rates are likely to reduce over time. Contrary to the Clenchwarton decision I consider that there is compelling evidence before me to make an allowance for large windfall sites (>10 dwellings) given that not all of the planned growth will be delivered through site allocations with windfall continuing to be a notable source of supply within development boundaries (especially within the towns).
29. Whilst I note the appellant's concerns that recent efforts to significantly boost supply may in effect be bringing future windfall forward (and thus introducing an element of double-counting) I am not persuaded, given the diversity and choice of windfall sources, that this strand of supply should be unrealistically discounted further or precluded altogether. Accordingly, I consider the LPA's total windfall allowance of 476 dwellings to be robust and should be included in the forthcoming five years of housing supply.

²² Document 19

²³ With reference to Planning Practice Guidance paragraph: 3-035-20140306

²⁴ NPPF, paragraph 47, footnote 11

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

30. A substantial element of the LPA's housing supply is credited to emerging allocations in the SADMP with an estimated yield of 3,427 dwellings in the next five years. From the evidence before me it is apparent that the plan has undergone rigorous scrutiny since its submission in April 2015. The plan is in its very final stages following an examining Inspector having firstly, examined the plan against the tests of soundness (including being justified and effective (deliverable)) and secondly having sanctioned consultation on main modifications which ends shortly.
31. Consequently, I consider the LPA is justified in making an allowance for a contribution from emerging plan allocations. In arriving at this view I have taken into account the quality of the Council's evidence base including its testing within its trajectory and the very late stage of progress that the emerging SADMP has reached²⁶. I appreciate there are still some outstanding objections to the plan but there is little before me to persuade me that the 3,427 figure, including allowances at the West Winch Growth Area, would be significantly at risk.
32. Generally, the appellant does not seek to test the individual deliverability of permitted or allocated sites but applies a number of discounting scenarios. I understand the genesis of this discounted approach to stem in part from the Clenchwarton decision where in response to concerns about the five year housing land supply calculations and "in the absence of any justified alternatives" an additional 10% discount was applied by the Inspector in that decision.
33. From the evidence before me the appellant has looked at four principal discounting scenarios largely predicated on the difference between forecast delivery and actual delivery. I note from the appellant's submissions that the differences are significant. However there are three fundamental points which lead me to have serious reservations about the appellant's general approach.
34. Firstly, events have moved on considerably since the Clenchwarton decision. The LPA has enhanced the inputs into its trajectory, notably the engagement with developers, site owners and applicants. I understand the appellant's point regarding the veracity of responses elicited by the LPA but there is no criticism of the questionnaire used by the LPA. The LPA has also candidly explained that some of the responses it received were not as positive as it had hoped. I find little to fault in the LPA also applying its own knowledge of market conditions to gauge the realism of the intelligence it was gathering. In summary, I am satisfied that the LPA has proactively tested site deliverability such that its forecasts in its trajectory are reliable.
35. Secondly, and specifically in respect of development plan allocations, I find significant credence to the LPA's submission that comparing forecast delivery against 1998 Local Plan allocations would not appropriately reflect that these allocations were not the subject of the more stringent NPPF soundness tests including deliverability. Nor does the appellant's approach properly reflect that the 1998 Local Plan only allocated a handful of larger sites whereas the SADMP contains a diversity of allocations of different scales across a wide spread of settlements. Accordingly, I am not persuaded that sites allocated in the SADMP should be discounted on the basis that there is a prevailing 'optimism

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

- bias' which should be tempered by looking back rather than examining the what is realistically happening and likely to happen.
36. In this regard I note the appellant's submissions in respect of a recent appeal decision in Dartford²⁷ in relation to forecasting but I find it has almost no parallels to the circumstances before me. In particular there is little to suggest in the Dartford decision that the LPA in that case had undertaken the actions which I have outlined at paragraph 26. Accordingly, I am not persuaded that the Dartford decision is particularly applicable to the circumstances before me.
37. In support of the Council's trajectory, I note that a number of SADMP allocations have either been granted planning permission or are in the process of obtaining permission. Additionally, the allocations in the SADMP are expressed as minima and it is not inconceivable that some allocated sites will yield more than envisaged in the plan. This is evidenced more generally in the LPA's response to the SADMP Inspector on this matter and is exemplified locally in Heacham on the main allocation at site G47.1 (where the total allocated capacity has been permitted on approximately half the allocated site area). Accordingly, I consider the LPA's assessment on the scale of supply from the SADMP allocations is not over-inflated.
38. Thirdly, I can find little justification in either national policy or guidance or in the case law before me that endorses the principle of applying further general discounts to housing supply along the methodological lines put forward by the appellant, particularly where LPA's housing trajectories are informed by sound local intelligence. In coming to this view I have also considered the two scenarios advocated by the appellant that would be the consequence of applying the suggested discount scenarios: (1) over-allocate in the SADMP or (2) apply a % discount and review and manage on an annual basis. Both approaches, in my view, run counter to the government's promotion of an informed and realistic approach to plan-making and the primacy of a development plan led system to widen housing choice and manage delivery.
39. Accordingly, I am not persuaded that there is a reasonable basis that the appellant's discount scenarios 1-4 should be applied to the extent which they are presented. In respect of the 3,427 dwellings anticipated from SADMP allocations I consider this to be a realistic figure informed by NPPF compliant plan preparation which is very nearly completed. Consequently, there is no sound justification for it to be discounted further.
40. The buffer for increasing choice and competition at paragraph 47 of the NPPF is not a substitute if there is a real and local likelihood that some of the permitted supply would lapse. I recognise that the LPA has undertaken work with developers to confirm timeframes for site delivery but there are a notable number of extant permissions including, but not limited to, a plethora of smaller sites (<10 units).
41. In this context I agree with the appellant that a lapse rate should be applied to extant permissions. Ideally, it should be based on local evidence on the rate at which permissions are converted into completions rather than as a proportion of the number of outstanding permissions. In this regard divergent figures are before me. As set out at paragraph 7 above I am drawn to the appellant's

²⁷ APP/T2215/A/13/2195591

analysis undertaken during the Inquiry²⁸, based on the most transparent dataset. It results in the appellant calculating a lapse rate of some 19-20%.

42. However, I have some difficulty with a lapse rate as high as 19-20% particularly given the work undertaken by the LPA to improve site deliverability information into its trajectory. Instinctively, the figure feels too high for what is a large and reasonably buoyant housing market area. It is starkly at odds with the LPA's alternative figures of 4.96%, 3.25% and 6.74%²⁹.
43. I acknowledge the appellant's criticisms of these lower LPA figures but I am concerned that the appellant's higher figure may reflect issues with the quality of the dataset that was provided (which I accept is beyond the appellant's control). As such I am reluctant to rely on it. Accordingly and in my judgment a 10% lapse rate³⁰ would be a judicious middle ground figure until more reliable and transparent information on lapse rates becomes available. In applying this lapse rate to extant permissions, those permissions subject to planning obligations and the windfall allowance in years 4 and 5 I calculate there would be a deliverable supply of 6,109 dwellings equating to 5.81 years.

Conclusion on Housing Land Supply

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

Character and Appearance

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

²⁸ Documents 33 and 35

²⁹ Document 2, pages 4 and 5

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

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

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

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

53. The appellant emphasises the strong hedgerow boundaries (including trees) and the potential to landscape a significant proportion of the appeal site as part of a layering effect to absorb the development into the landscape, similar to the verdant setting for housing along The Broadway to the north and north-east of the appeal site. This has been particularly considered in the appellant's analysis of progressive views along the A149³². I accept that in some conditions when traffic is moving quickly and there is foliage that the appeal proposal would not be prominent from this perspective. However, there will be other times when the lack of foliage would reduce the layered effect of the field boundaries. There would also be times when traffic is moving slowly as it enters the 40mph zone for Heacham or tailed back from the traffic lights at the nearby B1454 junction or from pedestrians using the footway along the A149. In these circumstances the extended settlement form of the appeal proposal and reduced verdant setting to Heacham would be more prominent than the appellant suggests.
54. With regards to the Millennium Wood site I accept that it is unlikely to be a principal destination for visitors to the AONB. However, it is a Parish Council site which is clearly marked as having public access and can safely be reached by foot within a reasonable walking distance of large parts of the village. It is a rare opportunity to access the escarpment and affords good views over the village to the Wash beyond. In my view, it is an attractive amenity destination for residents of the village and the appeal proposal would conspicuously result in the harmful loss of open countryside in foreground views of the village edge from this vantage point.
55. In considering visual impact I have had regard to the appellant's submissions about landscaping. Clearly this will take time to come to fruition such that even after a reasonable period of time, say 10 years, I am satisfied that the appeal proposal would still read in the landscape as a sizeable incursion in the countryside. Consequently, I consider landscaping would do little to reduce the harmful impact on the countryside character at this location.
56. The appellant asserts that the overall effect of the proposal on the character and appearance of the appeal location would be neutral, stemming in large part from a balancing of susceptibility of the large central open parts of the site and those parts of the site accommodating existing rural buildings. From my assessment above I consider the negative impacts, particularly from the loss of openness, have been understated by the appellant. Conversely the appellant's positive emphasis on the redevelopment of characteristic rural buildings with a more urbanised form of development is inflated such that the proposed redevelopment would also result in deterioration to the landscape resource.
57. The appellant submits that there would be a benefit in terms of the potential to create links through the appeal site to connect with adjoining countryside and developments. However, there is little evidence before me that any links

³² Mr Flatman PoE Section 6.3 and Figures 13 & 14.

- beyond the appeal site are any more than “aspirational”³³ which significantly reduces the weight I can attach to this potential benefit.
58. I note the visual inter-relationship of the appeal site with the AONB is clearly of concern to both Natural England and AONB Coasts Project. However, the busy A149 coast road with its lighting columns and commercial activities along this part of the route provide a clear demarcation between the more open, rolling landscape of the AONB and the lower-lying fringe countryside containing the appeal site. I do not accept that the proximity of the appeal proposal to the AONB boundary would in itself be particularly harmful to the landscape character, amenity or setting of the AONB. That part of the appeal site that adjoins the AONB on its boundary with the busy A149 road is currently a sizeable parcel of land in rough pasture. This is proposed to remain open and would be a notable green buffer between the development and the AONB.
59. It was submitted at the Inquiry that the character of the settlement fringe of Heacham at the appeal location is subject to change with the proposed Lidl supermarket³⁴ on the garage site to the north-east of the appeal site. At the time of the Inquiry that scheme remained undetermined but it largely involves the redevelopment of a brownfield site containing a collection of large garage workshops and petrol filling station canopy. From the plans before me and from my site visits I find the proposed development would not fundamentally alter the rural character of the appeal location due to it being largely contained on a previously developed site.
60. The appellant also submits that the appeal proposal would be less harmful in landscape and visual amenity terms than the adjoining SADMP residential allocation at Cheney Hill which is largely a greenfield site and occupies slightly higher land. Development on the allocated site would be visible from the public bridleway and from the A149 and Millennium Wood. However, unlike the appeal site it is a pocket of land enclosed on several sides by residential development and it is not dissected by a public green lane. As such the development would largely result in infilling between existing residential development. Accordingly, the SADMP allocation does not represent a more harmful site in landscape terms and nor does it represent a precedent for the appeal proposal.
61. I therefore conclude that the appeal proposal would be appreciably harmful to the character and appearance of the countryside at this rural edge of Heacham due to the impact arising from the permanent loss of openness which is a key characteristic of the landscape setting in this part of Heacham. I am mindful that the appeal location is not a designated or valued landscape. However I conclude that the identified harm places the appeal proposal in conflict with the development plan at Core Strategy Policies CS01 and CS12. Additionally, the appeal proposal would fail to accord with the core planning principle at paragraph 17 of the NPPF to take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside. It would also be at odds with the requirement of the NPPF at paragraph 61 to ensure that new development is integrated into the natural environment.

³³ MF in XX

³⁴ Submitted plans as Document 5

The need for the proposed elderly accommodation

62. There is no dispute between the parties that there is a need for both the housing with care and care home elements of the appeal scheme and that a need endures in the event that sites allocated for such uses in the SADMP at Hunstanton come forward. Nor is there disagreement that the proposed amount of market housing would be broadly justified as being that necessary to cross-subsidise the specialist housing for the elderly (including the proposed affordable accommodation) to make the appeal proposal viable³⁵. Consequently the principal matter relates to the scale of need for specialist elderly accommodation in terms of being a supportive material consideration.
63. I consider the starting point in determining the need to be the Norfolk County 2008 Strategic Model of Care. It covers the period to 2020 and the need it identifies is predicated on there being a 40% increase in the population aged 65-84 and a 57% increase in population aged over 85³⁶. For the Hunstanton sub-area (which includes Heacham) it identifies a need, amongst other things, for 98 'housing with care' units, 56 dementia care home with nursing units, 65 care home with nursing units and 70 dementia care home units.
64. The issue of need is also explored in the Strategic Housing Market Assessment 2014 (SHMA 2014) although its outputs in terms of need for elderly accommodation are less fine grained than the 2008 Model of Care. Nonetheless, it identifies a net need figure of 192 specialist homes³⁷ across the Borough between 2013 and 2028 of which 35.6% should be affordable. In addition to these datasets the appellant has undertaken a population based needs analysis but acknowledged that this approach broadly corroborated the levels of housing need identified.
65. I accept that the 2008 Model of Care work is now of some age and that the assessment is being updated, amongst other things, to reflect the influences of the recent Care Act 2014. However, I have very little compelling evidence that the 2008 model has considerably under-estimated the need or that it follows that an increase in aging population exponentially drives an increase in need for specialist accommodation. It seems to me from the evidence before me that the matter of housing need for the elderly is very complex.
66. This is partly reflected in relative wealth (equity) which results in a very high owner-occupation level in the over-65 age cohort in this part of the Borough³⁸. The SHMA 2014 reveals a strong demand from elderly households to "remain in normal residential accommodation" (paragraph 9.43). This chimes with the strong themes in the Care Act 2014 to support a variety of care provision, not least adaptations and support services to facilitate independent living at home. There are also other factors such as the remodelling of existing care home provision³⁹ which also add to the complexities of housing need for the elderly.
67. None of this negates the need for additional specialist elderly accommodation but I am not persuaded that matters have significantly changed from the

³⁵ Document 14

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

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

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

³⁹ Ms Patton's PoE

- available data before me. I therefore do not share the appellant's assertion that there is a position in 2016 of significantly increasing or "chronic" unmet need.
68. In terms of meeting the need I note that very little provision has been made in the Borough since the 2008 Strategic Model of Care outputs. However, the situation now appears to be changing on two fronts. Firstly, schemes are coming forward through various planning applications⁴⁰. I am keen to draw a distinction between retirement developments and housing with care but I am satisfied that some of this emerging provision falls within the latter category and will positively contribute towards meeting the identified need. This provision is occurring within the context of Policy CS09 of the Core Strategy.
69. Secondly, the SADMP makes specific provision for housing with care and a care home on proposed allocated sites F2.3 and F2.5 at nearby Hunstanton, a main town identified in the Core Strategy. I note the SADMP Inspector has specifically asked about the housing with care at Site F2.3 but there is nothing in his preliminary findings (February 2016) or the list of post hearing main modifications which leads me, at the time of this decision, to suspect that sites F2.3 and F2.5 are consequently at serious risk of de-allocation.
70. The modified allocation F2.3 is on a greenfield site and includes a notable element of market housing such that the scale and mix of housing now being promoted through a planning application⁴¹ is broadly comparable to that of the appeal proposal before me. Given the similarities I see no reason why the proposed housing with care proposal at Hunstanton would either be unviable or unable to support an element of affordable elderly accommodation, particularly given preliminary interest from a registered provider⁴². I note the current submissions from the Hunstanton site applicant both in terms of SADMP process⁴³ and the planning application but I do not interpret this evidence as compelling signals that the draft policy requirements would be wholly undeliverable or that an acceptable resolution could not be reached. Accordingly, I do not share the appellant's doubts that specialist elderly accommodation is unlikely to be delivered on the allocated site in Hunstanton.
71. In terms of site deliverability I have carefully considered the representations⁴⁴ from Historic England on both the SADMP and the planning application at Hunstanton. There is clearly concern about the impact of development on the setting of heritage assets but given the very late stage of plan preparation on the SADMP (post hearing modifications) it is far from certain that Historic England's repeated representations on this site should be considered a 'showstopper'⁴⁵. This is perhaps illuminated further by their comments on the planning application which make reference to the balance at paragraph 134 of the NPPF in terms of "less than substantial harm". I accept that case law has determined that this is not a low threshold but nor is it a moratorium. Ultimately I am not persuaded, on the evidence before me, that there is sufficient uncertainty or risk to discount that some of the need for elderly accommodation would be secured on the SADMP sites in Hunstanton.

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

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

⁴² Document 4, Appendix 1

⁴³ Document 20

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

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

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

Other Matters

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

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

Planning Balance

78. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This is reaffirmed in the NPPF⁴⁶ which states that development proposals which conflict with an up-to-date Local Plan should be refused unless other material considerations indicate otherwise. It is accepted that the NPPF is one such material consideration.
79. In considering the housing land supply in some detail I have concluded that when allowing for the uplift for the FOAN, a 20% buffer for persistent under delivery and a cautious 10% lapse rate it remains that the LPA can adequately demonstrate a five year supply of deliverable housing land. This is in large part due to its proactive efforts following the Clenchwarton decision, the progress made on the SADMP document and the robustness with which the associated housing trajectory has been tested during its preparation. Accordingly, the LPA is in a position to demonstrate that it is delivering a wide choice of high quality homes in accordance with the requirements at paragraph 47 of the NPPF.
80. Significantly, relevant development plan policies for the supply of housing are to be considered up-to-date. This includes the spatial strategy and distribution of housing presented in the Core Strategy at Policies CS01, CS02, CS06 & CS09 and Local Plan Policy 8/1. These policies have full weight. Additionally, the SADMP has been prepared in accordance with the Core Strategy and NPPF and due to its advanced stage of preparation I also give significant weight to Policy DM2. Consequently, because the appeal site is a non-allocated site located outside the settlement boundary in countryside it conflicts with the up-to-date development plan.
81. It is also at the edge of a tier of settlement in the Core Strategy for which a level of moderate growth has been allocated in order to secure a sustainable balance between services and population. Whilst that growth is to be regarded as minima I nonetheless consider the proposed housing allocations in the SADMP, extant permissions and windfall potential within Heacham provide ample scope for local housing need to be met in a sustainable way. The scale of the appeal proposal, which includes some 70 general needs dwellings, would harmfully unbalance the carefully considered spatial strategy which focuses greater levels of growth to those settlements where there is a wider range of services, employment and transport to support a larger population. Consequently, the appeal proposal would significantly push growth in Heacham

⁴⁶ Paragraph 12

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

82. The appellant suggests Heacham's role and allocation could be sustainably increased but there is no alternative methodology or figure before me. I consider Heacham's role in the settlement hierarchy would have been carefully tested as part of the Core Strategy process to which the SADMP needs to be consistent. Accordingly, in light of the demonstrable housing land supply, any reappraisal of Heacham's role should be considered as part of the forthcoming Local Plan review rather than on an adhoc basis.
83. Whilst the appeal proposal would not harm the landscape or scenic beauty of the adjoining AONB it would result in harm to the character and appearance of the countryside to the south-east of Heacham, detrimentally affecting the rural setting of the village. This harm would mean that the appeal proposal would be conflict with development plan policy and would fail to accord with core planning principles in the NPPF. For the reasons set out above I consider that appreciable weight should be given to the harm identified.
84. On considering the issue of need I have determined that the Core Strategy at Policy CS09 expressly deals with the SHMA and refers to the needs of the elderly and there is evidence before me that specialist elderly accommodation is coming forward in the Borough in addition to the allocated provision in the nearly finalised SADMP. Taking this into account and in the light of the case law⁴⁷ before me it is clear that the development plan is not silent on the matter of housing needs for the elderly.
85. Accordingly, pulling these strands together, the second bullet point of paragraph 14 of the NPPF is not engaged and the development plan prevails, together with the significant weight to be attached to the near finalised SADMP. I therefore turn to consider whether other material considerations indicate otherwise that permission should be granted.
86. I have considered that the appeal proposal would be acceptable in highway safety terms. The proposed development would offer benefits in terms of additional employment and services to the village and areas of public and recreational open space (including habitat mitigation). It would also contribute to boosting the supply of housing including specialist elderly accommodation, including needed affordable provision towards the 35.6% identified in the SHMA. Additionally residents of the appeal proposal would be sustainably located to the services and facilities in Heacham. These are all factors that weigh in favour in of the appeal proposal. However, the benefit from the supply of housing must be moderated by the availability of a healthy five year supply. Additionally the weight to meeting the unmet need for specialist elderly accommodation is also limited in light of my findings that the need is not chronic and can largely be addressed elsewhere at more sustainable locations. On balance, I am not persuaded that the cumulative benefits from the appeal proposal are sufficient to outweigh the conflict with development plan policy.

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

87. I have also considered carefully the case law⁴⁸ presented to me on whether the presumption in favour of sustainable development occurs more generally. On this point, whilst there would only be modest social and economic benefits arising from the appeal proposal there would be harm in respect of the environmental dimension of sustainable development in terms of the character and appearance of the locality. The NPPF⁴⁹ is clear that economic, social and environmental gains should be sought jointly and simultaneously. On this basis the appeal proposal would not constitute sustainable development for which there would be the presumption in favour of.
88. In terms of dismissing the proposal I am mindful that there would remain some unmet need in specialist accommodation for the elderly. I have dealt separately elsewhere with the provisions of the Care Act 2014. However, I have also had regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010 which sets out, amongst other things, the duty of equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. Since the appeal would provide accommodation for the elderly and disabled, they would have protected characteristics for the purposes of the PSED.
89. Even so, it does not follow from the PSED that the appeal should succeed. The variety of other sites either with planning consent or being submitted for consideration and the opportunities for sustainably located non-allocated provision in accordance with development plan policy (CS09) does not indicate that there would be inequality of specialist housing opportunities for the elderly or infirm.

Conclusion

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

David Spencer

Inspector.

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

⁴⁹ Paragraphs 6-9

APPEARANCES

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INTERESTED PARTIES

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

Documents submitted at the reopened Inquiry event

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

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

Documents submitted after the reopened Inquiry event

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

Notice advising of Community Infrastructure Levy Public Hearing

The Borough Council of King's Lynn and West Norfolk submitted its CIL Draft Charging Schedule to the Planning Inspectorate on Friday the 10th June 2016 for public examination in accordance with Section 212 of the Planning Act 2008 (as amended).

The Community Infrastructure Levy Draft Charging Schedule sets out proposed charges for development in King's Lynn and West Norfolk to help support infrastructure provision.

The Draft Charging Schedule is now subject to independent examination under Regulation 21 of the Community Infrastructure Levy Regulations 2010 (as amended).

The Borough Council of King's Lynn and West Norfolk has appointed Mr Philip Staddon BSc, Dip MBA MRTPI as the Examiner who will conduct the public examination.

The Examination in Public will commence at 10:00am on Tuesday the 6th of September 2016 at South Lynn Community Centre, 10 St Michael's Road, South Lynn, King's Lynn, Norfolk PE30 5HE.

A Programme Officer has been appointed to assist the examiner in running the examination.

Any correspondence or queries relating to the Examination should be directed to the Programme Officer, Miss Lesley Morton,

c/o Borough Council of King's Lynn and West Norfolk, Kings Court, Chapel Street, King's Lynn, Norfolk, PE301EX, or by telephoning 01553 616819, or via email:

cilprogrammeofficer@west-norfolk.gov.uk.

Up to date information regarding the examination can be viewed on the Council's website:

www.west-norfolk.gov.uk

Name of the group: CUSTOM BUILD AND SELF BUILD POLICY DEVELOPMENT TASK GROUP

Officer contact:

Duncan Hall: 01553 616445

duncan.hall@west-norfolk.gov.uk

Alan Gomm: 01553 616237

Alan.gomm@west-norfolk.gov.uk

Date: 17th June 2016

Timescale and delivery expectations

The expectation is that the group will have met on 4 to 5 occasions, and will have some proposals and recommendations to make to Cabinet by the end of the calendar year 2016. This time scale will fit in with the first review of The Local Plan.

Task Group Status

It was agreed by the Regeneration and Development Panel that the group would be established a formal basis. In this regard the group members will undertake (with the support of officers including Democratic services) to:

- Appoint a chair person
- Participate in meetings
- Prepare / agree meeting agenda items
- Agree and publish agenda
- Meet in public – with the exception press and public for reasons including commercial sensitivity or details appertaining to another organization
- Complete and publish minutes of meetings held

Membership

The task group will be made up of 5 members, which is representative/ proportional to the Councils political composition. Group Leaders will nominate members to the group.

The initial proposed group members are as follows:-

Labour Group Member:

Sandra Collop

Conservative Members:

Colin Manning

Richard Blunt

Bal Anota

Tony Bubb

Purpose / role of the group

The purpose of the group is to examine and determine appropriate policy and practice proposals for the Council's Cabinet and Full Council to consider.

The policy task group will look at the following key areas:-

- The requirements of Self-build and Custom housebuilding Act 2015, and Chapter 2 of The Housing and Planning Act 2016 relating to Self-build and custom housebuilding.
- Promotion and communication strategy in terms of the requirements of the Self-build and Custom housebuilding Act.
- Opportunities to create self-build / custom build plots that meet the identified needs of the area.
- Planning policy mechanisms to increase the provision of self-build/ custom build plots including (but not exclusive) percentage policies, allocation of sites, exception site policies for example.
- Opportunities to directly or facilitate develop and sell self-build and Custom-build plots – to be considered in conjunction with the Council's emerging Investment/ Development strategy.
- Starter Homes – in addition to make recommendations on emerging planning requirements, and opportunities to access funding to directly deliver Starter Homes.

- Measurers to increase the Housing supply including the supply of smaller sites to help SME delivery.

Meeting arrangements

Initial scoping meeting - with the purpose of agreeing a work plan. Further meetings will be arranged to discuss options, and review progress of work plan.

It is envisaged that the first meeting will be held before the **end of July 2016**.

Working methods

- Involvement / contributions from specialists/ stakeholders who might be invited to present material at a meeting. At the recent Right to Build Summit the NaCSBA announced its intention to form a Custom and Self-Build Task Force to work with local authorities to implement the Right to Build. There may be an opportunity for the group to access this resource.

Important source of pre-meeting material is to be found at:

- Self-Build Portal - a national resource at: www.selfbuildportal.org.uk
- He also made reference to the NaCSBA website at: www.nacsba.org.uk/researchdevelopment

REGENERATION AND DEVELOPMENT WORK PROGRAMME 2016/2017

1 June 2016

- HLF Heritage Grants Guildhall Complex Project – Mark Fuller/Laura Hampshire
- Derelict Land and Buildings Group Update – last considered October 2015 – Ostap Paparega and Laura Hampshire
- Nominations to Outside Bodies
- Membership of Informal Working Groups (if any are in existence)
- Custom Build and Self Build Policy Group – Duncan Hall

13 July 2016 – meeting to be preceded by a tour of King’s Lynn Innovation Centre – 5.15pm Venue – King’s Lynn Innovation Centre

- CIF Bus Route
- Update on King’s Lynn Innovation Centre
- Enterprise Zone Update
- Update on 5 year land supply
- One Public Estate

27 July 2016

- Terms of Reference – Custom Build and Self Build Policy Task Group
- CIL update
- Update on 5 year land supply

30 August 2016

- King’s Lynn Town Centre Action Plan – Annual Update
- Arts Centre Update
- Five Year Land Supply Update

19 October 2016

- King's Lynn Town Hall update – last update provided March 2016
- LEADER Programme and West Norfolk Local Action Group Update – Norfolk County Council

30 November 2016

- Destination Management Plan Update – Last considered November 2015 – Tim Humphries

13 January 2017

- Capital Programme/Budget

15 February 2017

22 March 2017

- Annual Feedback reports from Outside Bodies

25 April 2017

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To be scheduled

- Visit to King's Lynn Innovation Centre
- Silica Sand Extraction
- Asset Register
- Tour of the Bus Station