

Parish:	Pentney	
Proposal:	Outline application for new warehousing, a new dwelling house, a wildlife and tourism lake with holiday lodges, nature reserve and associated accesses and facilities, installation of a new sluice gate to assist and ease flooding in Pentney	
Location:	Oakland Gardens Main Road Pentney Norfolk PE32 1FG	
Applicant:	Oakland Gardens	
Case No:	21/02392/OM (Outline Application - Major Development)	
Case Officer:	Clare Harpham	Date for Determination: 20 April 2022

Reason for Referral to Planning Committee — The application has been called in to the Planning Committee by the Assistant Director for Environment and Planning due to the scale of the issues it raises.

Neighbourhood Plan: No

Case Summary

The application site is located within the countryside and is accessed directly off the A47 and comprises predominantly agricultural land. The wider site, within the blue land, comprises an existing business dealing with horticultural storage and distribution which is located within a former agricultural building, agricultural land and a long access drive which follows the line of a disused railway track south-eastwards towards Pentney Lane.

The application site comprises 2.96 hectares with the application seeking outline planning permission with all matters reserved for new warehousing for the existing storage and distribution business, a new dwelling house, a wildlife and tourism lake with eight holiday lodges, nature reserve and associated accesses and facilities, as well as the installation of a new sluice gate to assist and ease flooding in Pentney Lane which is located to the south of the site. An indicative plan illustrates the positioning of each proposal although this is indicative only at this stage. The application is immediately west of Pentney Heath which is a County Wildlife Site and is within the hydrological catchment of the River Nar SSSI.

Key Issues

The principle of development
Impact on Ecology
Visual Impact
Impact upon Neighbour Amenity
Highways Impacts
Flood Risk
Crime and Disorder
Other material considerations

Recommendation

REFUSE

THE APPLICATION

The application site is irregular in shape and is situated on the south-western side of the A47 and to the north-west of Pentney Lane, Pentney. The site is accessed in the north-eastern corner directly off the A47 with the access utilising an existing internal road which crosses open agricultural land laid to grass towards the existing business on site. The application proposes a second access to run along the eastern side of this agricultural land towards a parcel of agricultural land which is south of the existing business and which is currently classed agricultural land.

The wider site, within the blue land, comprises an existing business dealing with horticultural storage and distribution which is located within a former agricultural building, agricultural land and a long access drive which follows the line of a disused railway track south-eastwards towards Pentney Lane. At the time of the site visit there was additional temporary storage and lorry containers on site.

The application site comprises 2.96 hectares of agricultural land with the application seeking outline planning permission with all matters reserved for new warehousing for the existing storage and distribution business, a new dwelling house, a wildlife and tourism lake with holiday lodges, nature reserve and associated accesses and facilities, as well as the installation of a new sluice gate to assist and ease flooding in Pentney Lane. An indicative plan illustrates the positioning of each proposal although this is indicative only at this stage.

SUPPORTING CASE

Orsi-Contini were instructed to propose this enabling project on behalf of Oakland Garden Supplies Ltd. In 2021 Oakland's were approached by Joe Orsi, who at the time was the acting Parish Chairman and team leader of the Neighbourhood Plan and the Pentney Flood and Drought Committee. The approach was made to establish a way of controlling flood and drought risks to the north of the village.

Directors Lee and Kerry Ward, agreed to design an outline enabling plan for the consideration of the Parish Council. Site visits were arranged and proposals were discussed at Parish meetings. The parish outlined their requests and Legal contracts between the Parish council and the owners were agreed to. This covered ditch connections, holding lake and sluice gate control. To fund the latter, this proposal was submitted to BCKLWN Planning department. Following site visits, discussions and comments with the LPA's representatives, the application was revised to meet the planning policy requirements.

This application enables much needed flood and drought support to the North East of the village, by holding and releasing flood water to benefit of wildlife, businesses, and residential properties. It will also benefit the local employment prospects and people with mental and physical needs and their care givers nationally. A dedicated respite lakeside cabin is provided in perpetuity to give back to a community that has already helped the Ward family when they, and their son, needed help. The lake area is part of the flood and drought solution. Working in conjunction with new ditches, they enable heavy rain to discharge quickly away from the village and hold water back during periods of drought. This project also provides the Ward family with a more diverse portfolio of income from the site to better weather future economical storms which have hindered the current business model over the years.

Since our revised submission, we have the full support of the local residents and the Parish council with no complaints or objection from any village residents.

For the revised submission, the only holding objection is from the Norfolk Wildlife Trust (NWLTL). They have requested a full ecological report. (A comprehensive preliminary report has been submitted). The full report will be completed between March and August this year as there are seasonal requirements to monitor the wildlife. The PEA illustrates there is little chance of finding any adverse impacts on this site. Should any arise, according to the ecologist, they can all be easily mitigated. As this is an outline application, any issues can be dealt with before full planning permission is sought. We find this holding objection difficult to reconcile since the project has so many ecological benefits that are clearly in the interests and ambitions of the NWLTL and the CWS. We have repeatedly tried to engage with the NWLTL but disappointingly they have not responded.

Our clients have been operating from this site for over 10 years. They have already significantly improved the site for the benefit of wildlife and have been a good local employer. Securing the long-term location of this family business in Pentney for generations to come will allow them to continue to demonstrate their love and enthusiasm of their gardening business and to support and improve the native wildlife diversity.

Finally, we would like to make it known that Orsi-Contini were proud to be asked to help with this proposal as it fits perfectly with their own ambitions to help with the needs of wildlife and wider communities, for this reason we accepted the role of agents. We very much hope that the Planning Committee share the same views as us for the benefits of this proposal.

PLANNING HISTORY

17/00875/F: Application Permitted: 05/09/17 - Variation of condition 2 of planning permission 15/01929/F - Construction of storage and distribution building in connection with horticultural business (Class B8), following rescinding of building approved under planning reference 11/01556/F: To vary previously approved drawings – Oaklands Pentney Lane Pentney

15/01929/F: Application Permitted: 21/06/16 - Construction of storage and distribution building in connection with horticultural business (Class B8), following rescinding of building approved under planning reference 11/01556/F – Oaklands Pentney Lane Pentney

14/00938/F: Application Permitted: 09/10/14 - Retrospective change of use from agricultural buildings and land to storage and distribution in connection with horticultural business (Class B8) to include the siting of 2no. portacabins and provision of passing bay - Land Off Pentney Lane Pentney

14/00003/CUPD: Refused to Determine: 13/06/14 - Prior Notification: change of use from agricultural building to Class B8 (Storage and Distribution) - Agricultural Buildings Pentney Lane Pentney

11/01556/F: Application Permitted: 23/12/11 - Construction of storage and distribution building in connection with horticulture business (class B8) - Land Off Pentney Lane Pentney

10/01411/F: Application Refused: 08/10/10 - Change of use from agricultural building and land to storage and distribution in connection with horticultural business (Class B8) to include the siting of 2 no. portacabins - Land And Buildings North West Of Dutch House Pentney Lane Pentney

Appeal Dismissed 13/04/11;

RESPONSE TO CONSULTATION

Parish Council: SUPPORT

National Highways: NO OBJECTION

The proposal utilises the A47 which forms part of the Strategic Road Network. Since our initial response the applicant has provided National Highways with additional information to address our previous concerns relating to accessing the highway and the trip generation from the proposal uses. We therefore withdraw our holding objection and issue no objection to this proposal.

Highways Authority (NCC): NO OBJECTION

Pentney Lane is not acceptable to access this application. I observe that the applicant has indicated that direct access to Pentney Lane would not be made. We would be satisfied with this position and National Highways are required to comment in relation to the access onto the A47. A condition is required to ensure that vehicular access is permanently closed onto Pentney Lane to ensure access and egress is limited to the A47 access only.

Community Safety & Neighbourhood Nuisance: NO OBJECTION

Whilst CSNN do not raise any objections in principle to this outline, further details on certain aspects need to be submitted. These can be managed sufficiently via the application of suitably worded conditions.

The application indicates that surface water drainage is to be via a Sustainable Urban Drainage Scheme (SUDS). Whilst certain details can be derived from the submitted statements etc, a full scheme describing the SUDs arrangements should be submitted for approval before the commencement of the development. No details of how foul water is to be treated / disposed of has been submitted. Conditions are requested relating to foul and surface water drainage arrangements; operating hours for the on-site business and external lighting.

Environment Agency: NO OBJECTION

We have no objection to the proposal but the IDB should be consulted as the site is within their rateable catchment area and the proposed works may impact upon the drainage of the area, especially the proposed sluice gate. In addition, the works may need land drainage consent from the IDB.

Internal Drainage Board (East of Ouse, Polver and Nar): NO OBJECTION

The site is outside the Board District, although it is a highland area that eventually drains into it. Provided the works do not increase the risk of flooding or drainage issues to neighbouring property and land, the Board has no objections to the application.

Internal Drainage Board (Water Management Alliance): NO COMMENT

The site in question lies outside the IDB Drainage District and as per our planning and byelaw strategy the proposed application does not meet our threshold for commenting. Therefore, no comment to make.

Anglian Water: NO COMMENT

The proposal falls out of our Statutory sewage boundary and as such we have no comment.

Emergency Planning: NO OBJECTION

Due to part of the application site being located within an area at risk of flooding and in line with best practice in business continuity I suggest that the occupants should sign up to the Environment Agency Flood Warning System, install services at high levels to avoid the impacts of flooding and prepare a flood evacuation plan.

Arboricultural Officer: NO OBJECTION

Whilst I have no objection in principle, it is difficult to assess any implications for the trees on site. I will need to see a full tree survey, arboricultural implications assessment and arboricultural method statement to BS 5837:2012 at reserved matters stage.

Natural England: NO OBJECTION

Following the submission of further details Natural England withdraw their holding objection and consider that based upon the plans submitted the proposed development will not have significant adverse impacts on the River Nar Site of Special Scientific Interest (SSSI).

Based upon the plans submitted and the updated hydrological report provided (Amazi, November 2022), Natural England is satisfied the report addresses our outstanding questions about the plan (requested on 11th Feb) and can conclude that the plan is unlikely to be detrimental to the interest features for which the River Nar SSSI has been designated.

Natural England also recommended that given the proximity to the River Nar which is classed as a main river by the EA that they are consulted as an environmental permit may be required relating concerning the lake creation and water supply. Regarding the sluice gate we recommend that the relevant body (EA and/or local IDB) are consulted regarding the installation of the sluice gate as consent may be required. We recommend a contribution to the Borough Council's habitat monitoring and mitigation fund in accordance with local plan policy to mitigate against recreational disturbance.

Norfolk Wildlife Trust: OBJECT

The site lies immediately adjacent to Pentney Heath Wildlife Site (County Wildlife Site), designated for its rich mosaic of heath, acid grassland, marshy grassland, woodland and scrub habitats. Planning policy requires an ecological assessment to assess the impact of the proposal and should cover the impacts of water quality downstream from waste-water discharge, including the River Nar SSSI but also any other wetland wildlife sites potentially at risk; the noise and light pollution impacts on the adjacent CWS; and potential increases in visitor pressure on the adjacent CWS and other designated wildlife sites nearby from increased human presence.

Whilst further ecological information has been submitted during the application and we have been in correspondence with the applicant, we do not consider that the information provided is sufficient to address the concerns raised in our initial objection (within above paragraph).

We strongly recommend that the further surveys and assessment recommended in the Preliminary Ecological Assessment (PEA) is provided and consulted upon prior to determination so that the impacts on the adjacent CWS and the nearby SSSI, as well as

Priority Habitats and Priority Species can be adequately addressed, in line with Wildlife Law and Planning Policy.

The proposal is accompanied by a PEA, which was carried out during two site visits during March and April 2022, largely outside the recommended survey seasons for the habitat and species assessed. We strongly disagree with the statement made in the agent's email dated 15th November 2022 that the further ecological surveys are not needed at this stage due to the application's outline planning stage. The proposal has the potential to impact on a legally protected SSSI, a CWS protected under Council Policy CS12 and a range of protected species, as well as Priority Habitats, for which the Council has a duty to have regard in their conservation and enhancement under the Natural Environment & Rural Communities Act 2006 and the Environment Act 2021. The presence of protected species are also a material concern in planning applications and their presence or absence needs resolving prior to any planning decision so that necessary mitigation measures can be properly evaluated.

Best Practice guidance by the Chartered Institute of Ecology and Environment Management also notes that under normal circumstances it is not appropriate to submit a PEA in support of a planning application because the scope of a PEA is unlikely to fully meet planning authority requirements in respect of biodiversity policy and implications for protected species.

The PEA makes recommendations in sections 7.6 to 7.13 for further surveys, which we consider necessary to be completed before any effective determination of the required mitigation measures can be made. Given the extent of further surveys recommended, including the potential impacts on protected species, we do not consider it appropriate to determine this application in the absence of the further information required.

In order to comply with planning policy, we strongly recommend that the applicant provides a full ecological assessment, which should include an assessment of the likely impacts on the Pentney Heath CWS as well as the SSSI.

In the absence of a full and complete ecological assessment we object to the proposal and strongly recommend that further information is sought prior to any decision in order to ensure the impacts on protected species and priority habitats can be fully assessed.

Environmental Health & Housing - Environmental Quality (Land): NO OBJECTION

The applicant has provided a screening assessment indicating the presence of the railway but stating no known contamination. A previous contamination report is mentioned on the screening assessment and has been submitted under this application titled Site Investigation Report, dated June 2017 completed by Harrison Group. However, the report is associated with land approximately 250m south and has already been submitted under application 17/00032/O. Therefore, the risk assessment is not specific to this application site.

Due to the presence of the railway, there is the potential for contamination to be present. The plans also show the site becoming more sensitive to contamination with the 8 holiday lets and dwelling proposed. In the absence of a report demonstrating the site is suitable for the proposed use, full contamination conditions are recommended, which will include pre-commencement conditions.

Environmental Health & Housing - Environmental Quality (Air): NO OBJECTION

The proposal includes a new dwelling plus 8 holiday lodges situated around a new lake, plus a new distribution warehouse. Access is via an existing access onto the A47.

In terms of additional traffic movements, it is noted that the proposal will allow significant reduction in commuter miles to the premises as it would allow the owner to live on site as opposed to commuting. The IAQM (2017) guidance sets out indicative criteria whereby an air quality assessment would be required due to risk from additional traffic emissions. Based upon the indicative criteria whereby an air quality assessment would be required due to risk from additional traffic emissions. Based upon the information supplied it is unlikely the trips generated from the premises including delivery vehicles and holiday guest movements would result in an exceedance of the air quality objectives locally.

Notwithstanding comparison to the maximum pollution limits, the IAQM (2017) guidance refers to the design following principles of good practice. This is especially important as total movements from this type of use (internet sales/distribution and holiday use) is likely to be high. The guidance refers to designs incorporating for example, EC charging infrastructure. A condition is recommended relating to the submission of an EV charging scheme.

It is unclear regarding the method of heating to the buildings, with risk of biomass combustion (as the area is likely to be off-grid) with the need to ensure best practice to reduce impacts from particulate matter (PM10 and PM2.5). Additional information is required regarding the heating systems for adequate dry storage should biomass be the preferred energy source.

The drawings show the approximate scale of the lake but does not show depth. Understanding capacity helps to understand the quantity of waste material (tonnes) to be managed. Ideally the excavated material should be reused on site, to prevent additional HGV movements and related emissions will mean temporary stockpiles being created. Stockpiles can be a source of dust emissions and therefore consideration should be given to the siting of potentially dusty stockpiles, based upon such factors as the prevailing winds, proximity of neighbours and the site boundary and site operations. Minimisation of drop height is important in stockpiling to reduce wind whipping of particulates. Wherever possible, loading/unloading should take place at sheltered points around the stockpile to prevent entrainment of dust in the wind. When necessary to control dust emissions from stockpiles, methods such as limiting the height of stockpiles or using dust suppressants may be used. Other possible controls include windbreaks on stockpiles. Periodic conditioning with water, according to weather may be appropriate. In addition, storage areas where there is vehicle movement should either have a consolidated surface which should be kept clean and in good repair, or should be kept wet. The technique used depends upon the type of road under construction.

Transport of dusty materials should be carried out to prevent / minimise airborne dust emissions. Transportation of dusty materials should be sheeted and wheel cleaning facilities if necessary.

A condition relating to soil management, which should show the total amount to be excavated, how it will be managed and whether incorporated into the landscaping and how dust will be managed will be required and should be submitted at reserved matters stage when further detail is known regarding the lake.

Housing Enabling Officer: NO OBJECTION

The application only includes one residential dwelling and 8 holiday lodges. If the use of these holiday lodges will be restricted to non-residential (i.e. restricted to holiday use and not permanent dwellings) then these would not attract an affordable housing case. Whilst the site area is over 0.5 hectares, an affordable housing provision would only be required if the site is capable of accommodating five dwellings.

Historic Environment Service: NO OBJECTION

There are currently no known archaeological implications at the application site.

Norfolk Constabulary: Comments have been received relating to Secured by Design aims. Appropriate design features that enable natural surveillance should be included such as secure vehicle parking, adequate lighting of common areas, defensible space and a landscaping and lighting scheme which when combined enhances natural surveillance and safety. This is of course merely an indicative layout at this stage, but it does show that Crime Prevention through environmental design features are being carefully considered and hopefully incorporated into the final proposal. The Government has reiterated that designing out crime and designing in community safety should be central to the planning and delivery of new development. Specifically, the Planning Practice Guidance on Design reminds practitioners that local authorities are duty bound to adhere to Section 17 of the Crime and Disorder Act 1998 and exercise their functions with due regard to their likely effect on crime and disorder and do all that they reasonably can to prevent crime and disorder.

Detailed advice is given within the response which outlines advice on surveillance i.e. single point of access, CCTV, a Capable Guardian on-site (management of site), boundary treatments relating to planting and heights, positioning of parking areas and cycle storage and lighting design.

At this stage the application is for outline consent and not all information has been submitted.

Norfolk Fire & Rescue Service: NO OBJECTION

I do not object, providing the proposal meets the necessary requirements of the Building Regulations 2010 – Approved Document B (volume 2 – current edition, or as revised) including any requirements in relation to B5 access, facilities and arrangements for emergency service vehicles as administered by the Building Control Authority.

Cadent Gas: NO OBJECTION

National Grid Gas: NO OBJECTION does not affect any National Grid Gas Transmission PLC apparatus.

National Grid Electricity: MUST NOT PROCEED without further assessment by Asset Protection. The proposed works location is within the High Risk Zone from National Grid Electricity Transmission PLC apparatus. Further details are required, including how deep you are excavating and any plans.

UK Power Networks: The plan attached is an extract from our records and only shows cables and overhead lines owned by UK Power Networks

REPRESENTATIONS

FIVE letters of **OBJECTION** from two neighbours, covering the following:-

- Objector involved in restoration plans for Hoveringham Gravel Works (now Pentney Lakes) including the sluice arrangements which raise water levels in winter and lower in spring (eastern lagoon) which is now a County Wildlife Site (CWS). To reduce concern regarding future development the site was made subject of a Section 106 agreement,

however the net result is insufficient control under the Section 106 agreement has occurred.

- I purchased Pentney Heath (immediately adjoining the application site) with the intention of restoring it, with lowland heath being a priority habitat under the biodiversity action plans. This is continuing to be done with help and advice from the Wildlife Trust.
- The submitted business plan states that the applicant is 'interested in wildlife' and have 'improved it over the years', however I see no evidence of this.
- The proposal will provide disturbance to the neighbouring CWS Pentney Heath with an increase in human activity causing noise and disturbance.
- Light pollution could affect various botanical audits i.e. the area is subject of long-term moth studies which date back to the 1990s etc.
- There could be groundwater issues, as the proposal will have an effect on the natural fluctuation of the water table. At present there is an annual variation of 4 feet measured in the pond on the adjacent CWS, maintenance and viability of the site being dependent on this, e.g. otters and voles use the site which could be impacted by lowering the water table.
- There is the potential for pollution issues to arise due to sewerage disposal.
- Concern regarding the intensification of the access onto the A47 trunk road, with additional traffic including articulated lorries. There are points of access in close proximity with one access (carried out by National Grid to gain access to an electricity tower) with the objector being told the access should have minimal use.
- Area does not need more tourist development, with the area being served by a large number of sites, e.g. Pentney Lakes and Norfolk Woods and with other proposals also submitted for consideration such as Forestscapes proposal north of Pentney Lakes.
- Proposal does not accord with current planning policy, being located in an unsustainable location. Pentney is a Small Village and Hamlet where development should be limited, and the large scale of the proposal would make it visually intrusive.
- The proposal would have an adverse impact upon the neighbouring residents.
- The proposal will increase the amount of vehicular movements to the site which will increase noise and disturbance to the residential neighbours immediately to the north.
- The proposal does not comply with paragraph 48 of the Design Guide as it will not integrate well or relate to the surroundings, causing an adverse visual impact.
- There are much better locations for the proposed business uses in more sustainable locations.
- The proposal would overshadow the dwelling located to the north of the application site (this element has been withdrawn from the application and amended layout received).

FOUR letters of **SUPPORT** covering the following:

- Positive job creation/diversification of existing business encouraging growth.
- Positive for wildlife and flood relief.
- Like the fact they want to reserve one cabin for charity / disabled use.
- Applicant is working closely with the Parish Council to ensure the proposal meets the needs of the village.

ONE letter of **COMMENT** covering the following:-

- Support growth of local business but more shielding on western / southern boundaries is needed to mitigate visual disturbance.
- Holiday units need to be screened for light and noise disturbance.
- Holiday accommodation should be temporary and timed for when the site does not flood.
- Holiday units should remain the property of the site owners.
- If the current owner retires the conditions and covenant should apply to third party operators.

- Camping and touring caravans should be prohibited.
- Wildlife and biodiversity study is needed and will need to be monitored.
- Vehicle movement around the lake should be minimised.
- Current Pentney Lane access needs to be removed for safety.
- Pedestrian / cycle access to Pentney Lane may benefit holidaymakers / residents.
- Whilst I see the need for Secured by Design we value dark skies and the proposal should minimise light pollution.
- Not much of value to Pentney residents, notwithstanding the improvements to local drainage / wildlife.
- Improving the footpath east of Pentney Lane would make the facilities at Norfolk Woods more accessible.
- Concern regarding access onto the A47 having increased use (neighbouring site was told to limit use of access).

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS10 - The Economy

CS11 - Transport

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM3 - Development in the Smaller Villages and Hamlets

DM2 – Development Boundaries

DM6 - Housing Needs of Rural Workers

DM11 – Touring and Permanent Holiday Sites

DM13 - Railway Trackways

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

DM1 – Presumption in Favour of Sustainable Development

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

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

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

PLANNING CONSIDERATIONS

The main issues to consider when determining this application are as follows:-

- The Principle of development
- Impact on Ecology
- Visual Impact
- Impact upon Neighbour Amenity
- Highways Impacts
- Flood Risk
- Crime and Disorder
- Other material considerations

The Principle of development:

The application site is located within the countryside as defined by the Site Allocations and Development Management Policies Plan 2016 (SADMPP). It is also noted that Pentney village is defined within Policy CS02 of the Core Strategy 2011 as a Smaller Village and Hamlet where development is limited and will be judged against the range of policies within the Local Plan, including and in particular, Policy DM3 of the SADMPP, Development in Smaller Villages and Hamlets. In addition, development should seek to avoid conflict with environmental protection and nature conservation policies within the plan.

The application is for outline planning permission with all matters reserved for a number of proposals. For clarity the principle of each proposal is addressed individually below:-

A: New Warehousing

Amended plans were received during the course of the application which removed the proposed new business units and re-sited the proposal to expand the existing business on site, to a location which is adjacent to the existing business.

Currently within the blue land, there is an existing storage and distribution business (B8) which specialises in gardening and horticultural products and which utilises the existing access onto the A47. Retrospective planning permission was granted in October 2014 (14/00938/F) to change the use of the existing agricultural buildings to storage and distribution (B8) in connection with horticultural business. Since this retrospective application, consent has been granted on site for the construction of an additional building in connection with this storage and distribution business (15/01929/F which was varied by application 17/00875/F). This consent has been commenced as it was considered within 17/00875/Disc_A to have met the definition within Section 56 of the Town and Country Planning Act 1990, as amended. The applicant states that building was not erected following groundworks due to a number of factors, including Brexit implications for the business, Covid restrictions and the business now outgrowing the size of the building which has consent. This application seeks to provide larger warehousing for the business in the same location that has extant approval (17/00875/F).

The indicative plan shows a footprint larger than has previously been approved, however the full details of the building would be subject of a reserved matters application. Justification has been provided which states that the business is growing (hence the temporary storage on site) and it is time consuming to have to store products in different containers rather than one purpose-built building.

Policy DM3 of the SADMPP states that new development in Smaller Villages and Hamlets will be limited to small scale employment uses under Policy CS10. Policy CS10 does state that the Council will be supportive of the rural economy and diversification through a rural exception approach to new development within the countryside; through a criteria based upon retaining employment land and premises. Consent may be granted on land which would not otherwise be appropriate for development for an employment generating use which meets a local business need. Development should satisfy the following criteria; it should be appropriate in size and scale to the local area; it should be adjacent to the settlement; the proposed development and use will not be detrimental to the local environment or residents.

In this instance it is the expansion of an existing business, which was originally approved in December 2011 (11/01556/F) as it was considered by Planning Committee that it could help support rural employment. The proposal does not fully comply with the criteria within Policy CS10 as the site, whilst located adjacent to the A47, is located at some distance from the development boundary of any settlement and is outside the development boundary that previously applied to the settlement of Pentney, and which was removed when the Core Strategy was adopted in 2011. The indicative plan does indicate a substantial building, however details are not yet known and amended plans were submitted which moved the location of the proposed building from the northern part of the blue land and further away from the existing dwellings which are to the north of the applicant's land in order to help protect amenity and visual impact.

Given the previous approval at planning committee (11/01556/F) and the extant approval (17/00875/F) to provide additional warehousing, this element of the proposal is considered on balance to be acceptable (subject to ecology issues which is discussed below) and complies with the principles of the NPPF, Policies CS06, CS08, CS10 and CS11 of the Core Strategy 2011 and Policies DM2, DM3 and DM15 of the SADMPP 2016.

B: Wildlife and tourism Lake with nature reserve and sluice gates

The application proposes the provision of a lake which will be linked to existing drainage ditches to help store / retain water in times of drought and alleviate flooding (particularly in the Pentney Lane area) when water is excessive. It is proposed to control the water flow with a sluice gate linked to an existing ditch (a new ditch was dug in 2019 which does not have consent) which will take the water away from the site to the north. No further information or evidence has been submitted with regard to water drainage issues experienced by residents of Pentney Lane, whether flooding occurs, or how severe it may be.

Water management proposals are acceptable in principle, however when determining such applications, the LPA should ensure that flood risk is not increased elsewhere in accordance with para. 167 of the NPPF. In addition, para. 180 of the NPPF states that 'development whose primary objective is to conserve or enhance biodiversity should be supported...' While the addition of wildlife to the lake and a nature reserve is not the only objective of the proposal this is an element that planning policy is supportive of.

The provision of the proposed lake and sluice, whilst acceptable in principle does have implications for the existing ecology at the site, the River Nar SSSI and the adjacent County Wildlife Site (CWS) known as Pentney Heath (discussed below in Ecology section), and therefore whilst acceptable in principle there is currently not enough information submitted with regard to its ecological impacts and to ensure that the proposal would comply with the principles of the NPPF, in particular Section 15 'Conserving and enhancing the natural environment', or Policy CS12 of the Core Strategy 2011.

C: Holiday Lodges

The proposal includes the provision of eight holiday lodges and also a building labelled 'facilities of cabins' is shown on the indicative plan. Full details have not been provided as to the form of the holiday units or the 'facilities' building as the application is for outline consent. However, information submitted with the application suggests that the 'facilities' building would be where meals could be shared, well-being classes could be taken etc. The information submitted with the application states that the provision of this part of the application is to help enable the construction of the wildlife lake/sludge gate.

Whilst the Council is supportive of diversification, the proposal does need to comply with Policy DM11 'Touring and Permanent Holiday Sites' of the SADMPP 2016. Within the locational requirements of Policy DM11 it states that 'Proposals for new holiday accommodation sites or units or intensification to existing holiday accommodation will not normally be permitted unless:

- The proposal is supported by a business plan demonstrating how the site will be managed and how it will support tourism or tourist related uses in the area;
- The proposal demonstrates a high standard of design in terms of layout, screening and landscaping ensuring minimal adverse impact upon visual amenity and the historical and natural environmental qualities of the surrounding landscape and surroundings; and
- The site can be safely accessed;
- It is accordance with national policies on flood risk;
- The site is not within a Coastal Hazard Zone indicated on the Policies Map, or within areas identified as tidal defence breach Hazard Zone in the Borough Strategic Flood Risk Assessment and the EA's mapping;

During the course of the application a supporting plan was submitted and revised relating to the holiday accommodation. The rationale behind the proposal seems to be to utilise the proposed lake to provide a 'Wildlife, Wellness & Coworking B&B' where people can come to site who want a quiet retreat as well as having access to wellbeing classes and workshops. In addition, one of the units is proposed to be used to offer holiday accommodation for free to charity / disabled occupants. Whilst admirable in theory, there is no mechanism within the application to ensure that this element is provided, and it could be considered onerous to condition this element, given potential changes that could occur in the applicant's financial situation over time.

The business plan, whilst revised, does not seem particularly robust and whilst unrealistic expectations of holiday unit rental value have been revised to a more realistic level, it is not considered that the plan sufficiently complies with Policy DM11. The financial figures are based upon high occupancy of all seven rentable cabins in the first year of operation when the site, lake and landscaping may not be well established and the plan does not address how it will support tourism or tourist related uses in the area. While the applicant has indicated that it is the intention that the holiday units are kept in the control of the applicant, should members be inclined to grant consent for the proposal a section 106 agreement would need to be entered into to ensure that control remains over the management of the site. The applicant has submitted a draft deed of covenant to be signed with the Parish Council but this would not ensure the units are not sold off separately in perpetuity and in addition the Council cannot enforce a legal agreement between the applicant and a third party.

The application is for outline planning permission and therefore little detail has been submitted regarding the proposed holiday units and the layout is indicative only at this stage. Whilst the site is visually well screened to the east by the neighbouring County Wildlife Site (Pentney Heath) the current boundary treatment at the site is native hedging with some trees and therefore the scale of the proposal may have a visual impact, especially when taking

into consideration the scale of all the development proposed on site. Insufficient information has been submitted to demonstrate that the proposal will not have an adverse impact on the natural environment with regard to protected species and the neighbouring CWS and this will be discussed further below.

The application argues that the proposed development is required to enable the water management works to proceed which will be of benefit to the residents within Pentney Lane. No information has been submitted regarding the issues relating to flood/drought in the area and no alternative solutions have been provided within the application and the hydrology report submitted relates to the potential impact upon ecology and does not address whether an alternative water management scheme is possible or whether a reduction in the scale of the proposal would be feasible.

The proposal also includes the provision of an on-site dwelling to provide accommodation for the manager of the holiday accommodation (this addressed below). The combination of the provision of a new dwelling, as well as a significant number of holiday units, which is not considered to comply with Policy DM11 of the SADMPP 2016, is on-balance, not considered acceptable to enable the wildlife pond and sluice gates in this instance.

Overall, this element of the proposal fails to accord with the principles of the NPPF, Policy CS06, CS10, and CS12 of the Core Strategy nor Policy DM3 or DM11 of the SADMPP 2016.

D: New Dwelling

The application also proposes a new dwelling on site. The indicative plan shows that the dwelling would be sited within the southern parcel of land adjacent to the holiday cabins. During the course of the application the indicative plans were changed to show that the proposed dwelling would be 'temporary wardens accommodation mobile facility for 24 hour security purposes'. This element would still represent a residential dwelling, however under Policy DM6 of the SADMPP 'Housing Needs of Rural Workers', it is clear that if a new dwelling is considered essential to support a new rural based activity, it should normally, for the first three years, be provided by a caravan or other temporary accommodation.

Para. 80 of the NPPF states that decisions should avoid the development of isolated homes in the countryside unless ... there is an essential need for a rural worker to live permanently at or near their place of work. Whilst the site may not be physically isolated in the sense that the existing business is located to the north and the residential dwellings on Pentney Lane are located approx. 320m to the south, the proposal is not located in a sustainable location with regard to service provision and is located within currently open countryside. Policy DM6 states that new temporary dwellings should only be allowed to support rural based activities providing the following:-

- 3a) There is a clearly established functional need, requiring the occupants to be adjacent to their enterprise in the day and at night;
- 3b) The need could not be met by existing dwellings within the locality;
- 5b) The application is supported by clear evidence of a firm intention and ability to develop the enterprise concerned (for example significant investment in buildings etc is often a good indication);
- 5c) The application is supported by clear evidence that the proposed enterprise is planned on a sound financial basis.

3a) Functional Need - The business plan states that the proposed holiday cabins will be run like a B&B with breakfast and meals being offered on site as well as well-being classes etc. In addition, there is the potential for noise and disturbance on site to impact upon the

neighbouring sites, including the CWS. Therefore, in addition to security an argument could be made that an on-site presence would be required to manage the site.

3b) Existing Dwelling - No information has been submitted demonstrating whether an alternative dwelling has been considered which could meet the needs of the holiday units. In March 2017, members may recall granting outline planning permission for three dwellings and access upgrade onto the A47 (17/00032/O). The proposal was granted consent to enable the dwellings to provide a financial contribution towards the construction of the warehousing for the existing horticultural business discussed in Part A of this section. Condition 12 of this approval states 'Prior to the occupation of the third dwelling hereby permitted the warehouse (granted planning permission under application 15/01929/F) shall be constructed. To date this application has been implemented but only one dwelling has been completed and sold.

The submitted information does state that the applicant lives in Spalding, however it would seem that this is in fact the applicant's son Mr Lee Ward, and the proposed temporary dwelling is for him rather than the applicant. The other two dwellings approved under 17/00032/O are currently under construction and the applicant lives in a caravan on site (shown as no.2 Oakland Cottage on the application form). It is therefore shown that the applicant has consent for three dwellings in close proximity to the application site, two of which are still in his ownership and control, albeit incomplete.

5b) Intention - The existing site is agricultural land and there is no clear evidence of a firm intention to develop the site for holiday units. Whilst the applicant does own the adjacent existing storage business, which also forms part of this application to expand the warehousing, this is not sufficient to justify a dwelling in this location. In addition, while enabling planning permission has previously been granted (17/00032/O) to enable the applicant to construct additional warehousing for this existing business, this has not yet been carried out other than groundworks to ensure the planning permission remains extant for 17/00875/F (warehouse). In the absence of evidence to demonstrate otherwise, the proposal fails to meet this element of the policy and the applicant already has a dwelling on site which would enable him to live on site.

As discussed in the section above, the submission with regard to the proposed holiday units is not considered to meet the requirements of Policy DM11 or a sound financial basis which is required to comply with Policy DM6.

The proposed dwelling therefore does not meet the requirements of a temporary dwelling in accordance with Policy DM6 of the SADMPP 2016 and would therefore represent an unjustified dwelling within the countryside. The proposal would therefore be contrary to paragraphs 79 and 80 of the NPPF, Policy CS06 of the Core Strategy 2011 which seeks to protect the intrinsic character of the countryside, and policies DM2, and DM6 of the SADMPP 20216.

Impact on Ecology:

The application site is located within the countryside and immediately to the west of Pentney Heath which is a County Wildlife Site which is designated for its rich mosaic of heath, acid grassland, woodland and scrub habitats. In addition, the applicant site is within the catchment of the River Nar SSSI and therefore it is the statutory duty of the LPA under the Habitat Regulations (The Conservation of Habitats and Species Regulations 2017) to ensure that the proposed development will not adversely affect the SSSI, or any protected species and have a duty to have regard to the conservation and enhancement of Priory Habitats

under the Natural Environment and Rural Communities Act 2006 and the Environment Act 2021.

The Norfolk Wildlife Trust object to the proposal until a full ecological assessment has been carried out which includes the further surveys recommended in the submitted Preliminary Ecological Assessment (PEA). This is considered necessary given the scale of the proposal and the extent of the further surveys required to determine the impact of the proposal upon protected species and the priority habitats within the neighbouring CWS Pentney Heath.

The application includes proposed development that could impact upon ecology in a number of ways such as additional noise and disturbance, increased levels of lighting, human activity and an impact upon ground water levels which could affect the water table and consequently affect the conditions within the priority habitats, and therefore an ecological assessment was requested. During the course of the application a Preliminary Ecological Appraisal (PEA) was submitted as well as a Hydrological Review.

The ecological appraisal identified a number of ways that the proposed development could impact upon the SSSI and County Wildlife Site (CWS) immediately to the east and a number of further surveys were recommended in order to ensure that the proposal complies with the relevant guidelines and adequate mitigation measures could be put in place. A hydrology report was also considered necessary to assess the drainage impact of the water management proposals (lake and sluice gates) on the groundwater levels and the River Nar SSSI and the adjacent CWS.

A hydrology report was submitted which states that the site is hydraulically connected to the River Nar SSSI and that the watercourse between the site and the Nar is not considered to be at risk of degradation from the activities associated with the proposed development however measures will be required with regard to construction and maintenance. This would include managing the site run-off rates to prevent an increase in flood risk elsewhere. This report also states that the proposed sluice gate could be of benefit by controlling water in times of flood and drought, however management of the operation and maintenance of the sluice gate would be required and this would be the responsibility of Oakland as riparian owners of the watercourse.

The hydrology report states that the management of the sluice will be in liaison with Pentney Parish Council and a draft deed of covenant has been submitted with the application which is between the applicant and Parish Council. However, this draft deed is not a Section 106 agreement or condition that could control the management of the sluice gates in conjunction with this planning application. In addition the ecology report states that the control of water should be managed following discussion with the owners of the adjacent Pentney Heath (CWS) to ensure a level is set on the sluice to ensure the indirect impact of the sluice on local groundwater levels does not have a detrimental impact on the neighbouring CWS. There is currently no proposed water management scheme relating to the ground water levels in conjunction with the owners of the neighbouring CWS, indeed the owner of Pentney Heath objects to the proposal and one of the reasons for objection is the impact upon the groundwater levels within the CWS and its impact upon the priority habitat.

Following the submission of the PEA and hydrology report and confirmation of some of the proposed drainage arrangements for the site, Natural England withdrew their holding objection as the information submitted demonstrates that the proposal would not adversely affect the River Nar SSSI, however their response does still refer to their Standing Advice which includes the fact that the LPA should assess the impacts of the development on protected species but also the fact the LPA in line with paras. 175 and 179 should consider the impacts of proposed development on local wildlife with Priority Habitats of particular importance for nature conservation.

Consequently, until a full ecological appraisal has been carried out, which includes the surveys within the PEA, and a water management scheme has been considered which will ensure, not only that flood risk is not increased elsewhere, but that the changes in groundwater do not adversely impact upon the priority habitats within Pentney Heath CWS, then the proposal does not comply with Section 15 of the NPPF or Policy CS12 of the Core Strategy 2011 and should be refused.

Visual Impact:

The application is for outline planning permission and therefore the full plans are not available. However, given the scale of the proposed development it is reasonable to assume there would be some degree of visual impact.

The main impact would be to the south and west of the site as the site is well screened visually to the east by the adjacent CWS, however this visual impact could be mitigated by well thought out landscaping, although this would take some time to mature. The arboricultural officer has requested a full tree survey, Arboricultural Impact Assessment and Method Statement be submitted at reserved matters stage once the proposed layout is known.

A landscaping scheme would also be necessary at reserved matters stage to fully assess the proposal in the context of the proposed landscaping and any potential changes to existing levels should the spoil from the proposed lake be used on the application site.

Overall, whilst full details are not known at this stage, the proposal would comply with the principles of the NPPF, Policies CS06 and CS08 of the Core Strategy 2011.

Impact upon Neighbour Amenity:

The impact upon the neighbours to the north of the application site have been considered and objections have been received from these neighbours. Amended plans were submitted during the course of the application which removed the originally proposed business units and warehousing which were located directly south of these dwellings and which could have caused amenity issues.

No objections have been received from CSNN who have stated that additional details regarding surface and foul drainage, operating hours regarding the on-site business and external lighting could be dealt with by condition. CSNN have not responded to the most recent reconsultation where the proposed new warehousing would be located to the south of the existing business and is further away from the nearest residential neighbour than their original response. The proposal is therefore not considered to cause any adverse impact upon these neighbours. The proposed warehousing is located where the now lapsed warehousing was proposed and could be conditioned in a similar manner.

Overall, the proposal would therefore comply with the principles of the NPPF, Policy CS08 of the Core Strategy 2011 and Policy DM15 of the SADMPP 2016.

Highways Impacts:

The proposal would be accessed directly off the A47 which is classed as a Strategic Road Network. Policy DM12 of the SADMPP states that the Strategic Road Network which includes the A47 will be protected outside the settlements specified within Core Strategy policy CS02:

New development, apart from specific plan allocations, will not be permitted if it would include the provision of vehicle access leading directly onto a road forming part of this Strategic Road Network;

New development served by a side road which connects to a road forming part of the Strategic Road Network will be permitted provided that any resulting increase in traffic would not have a significant adverse effect on: The routes national strategic role as a road for long distance traffic; highway safety; the routes traffic capacity; and the amenity and access of any adjoining occupiers. In appropriate cases a Transport Assessment will be required to demonstrate that development proposals can be accommodated on the local road network, taking into account any infrastructure improvements proposed.

The proposed development involves the intensification of an existing access directly onto the A47 which is conflict with Policy DM12 of the SADMPP. Notwithstanding this a transport assessment was requested by National Highways who stated that they have no objection to the proposal based upon the figures given. It is also of note that since this response the applicant has withdrawn the new business units from the proposal which would have reduction in vehicular traffic movements from the original transport assessment for which the highways authority has no objection.

The applicant is in control of land, which is able to access Pentney Lane, to the south. This access is not considered suitable to serve the proposed development and therefore NCC Highways Officer recommends a condition ensuring that this potential access is permanently closed.

Therefore, whilst there is conflict with Policy DM12 of the SADMPP 2016 there is no objection from the statutory consultee with regard to the impact upon the Strategic Road Network or highway safety. Consequently, on balance it is considered that the proposal would comply with para 110 of the NPPF, Policy CS11 of the Core Strategy 2011 and Policy DM15 of the SADMPP 2016.

Flood Risk:

The application site is predominantly located within Flood Zone 1, with some of the access road onto the A47 in Flood Zone 3. The application site is within an area susceptible to groundwater flooding (between 50% and 75%), the northern part of the site predominantly where the access point is within a reservoir flooding area and part of the southern application area is within the climate change surface water flood risk area (1% AEP Climate Change). There is no objection to the proposal from the Environment Agency who recommended the IDB were consulted. Whilst outside the Board District the application site is within an area which drains into the IDB district. They have no objections to the proposal provided the proposed works do not increase the risk of flooding or drainage issues to neighbouring land or property.

Surface water drainage is proposed to be to the watercourse, proposed lake and a sustainable drainage system. Whilst this may be acceptable final details for this cannot be submitted at outline stage and would need to be conditioned (pre-commencement condition). Given the nature of the proposal and its potential to impact upon groundwater levels a water management strategy would be required by condition to ensure flood risk was not increased elsewhere, and also would have to be managed in conjunction with the adjacent County Wildlife Site.

The proposal complies with para 167 of the NPPF, Policy CS08 of the Core Strategy 2011 and Policy DM15 of the SADMPP 2016.

Crime and Disorder:

Comments have been received from the Police architectural liaison officer with recommendations to be considered when designing the proposal at reserved matters state to ensure natural surveillance. It is of note that comments made with regard to lighting and landscaping may be at odds with the comments from the ecologist regarding minimal levels of lighting being necessary due to the adjacent CWS.

Other material considerations:

Whilst there are no objections from Environmental Quality, given the location adjacent to the former railway line full contamination conditions would be required (including pre-commencement conditions) should the application be approved. The disused railway line is not sited within Policy DM13 as a route that is safeguarded from development within DM13 of the SADMPP 2016. It should be noted that the submitted plan is indicative only and at the current time does not indicate development on the track, but it would be necessary to cross it and the indicated proposal does about the location of the disused track. In addition, it is not yet known the volume of spoil that would be excavated in order to create the wildlife pond and therefore it may be necessary for dust suppression measures to be applied through a soil management condition.

Comments have been received from National Grid Electricity that the proposal must not proceed without further assessment from their Asset Protection Team as the proposed works location is within a High-Risk Zone from National Grid Electricity Transmission plc apparatus. Within comments received from the owner of Pentney Heath CWS there is an electricity tower located within the CWS.

There are no outstanding issues from the Historic Environment Service, Housing Enabling Officer, Norfolk Fire and Rescue, or Cadent Gas or UK Power Networks with regard to this application.

CONCLUSION:

The proposed application, whilst it may have benefits regarding water management within the locality, has failed to demonstrate that it will not have a detrimental impact upon the adjacent priority habitats within the County Wildlife Site (Pentney Heath), both with regard to protected species, and with regard to habitat impacts which may be caused by changes to groundwater conditions and consequently the level of the water table. The proposal is therefore contrary to Section 15 of the NPPF and Policy CS12 of the Core Strategy 2011.

The proposed holiday units and proposed dwelling have failed to demonstrate that they would comply with Local Plan policies DM11 and DM6 of the SADMPP as set out in the report above. Whilst there are benefits to the scheme which could generate some additional employment and help enable the creation of the proposed wildlife pond and sluice gate, the applicant has failed to demonstrate how the proposal will support tourism or tourism related uses in the area. The business plan seems to be based upon the site itself being the main attraction for holiday makers and would require a considerable financial outlay. However, at the current time there are no unique site characteristics which would draw custom and it may well take some time for the wildlife pond and associated ecology to establish. In addition, the proposal for a dwelling on site for the applicant's son does not comply with Policy DM6 and there is already extant consent for two dwellings in the applicants ownership in close proximity to the site and within the blue land. Whilst the applicant has accepted that in the first instance the proposed dwelling would be temporary, if it is accepted that the proposed

holiday units require an additional dwelling to provide an on-site presence, then it is highly likely this temporary consent will later be requested to be a permanent dwelling.

On balance, while there are some benefits to elements of the proposed development, the large scale of the proposed development, in a location which is not sustainable is considered contrary to the principles of the NPPF, Policies CS01, CS02, CS06, CS08, CS10 and CS12 of the Core Strategy 2011 and Policies DM2, DM3, DM6, DM11, DM12, and DM15 of the SADMPP 2016 and therefore it is recommended that the application be refused.

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 The applicant has failed to demonstrate that the proposal will not have an adverse impact upon the ecology (protected species and habitat) of Pentney Heath which is a County Wildlife Site. The proposal is therefore contrary to paragraphs 174, 179 and 180 of the NPPF 2021 and Policy CS12 of the King's Lynn and West Norfolk Core Strategy 2011.
- 2 Para 84 and 85 of the NPPF enables the diversification of existing businesses and allows for sustainable rural tourism and leisure development that respects the characteristics of the countryside, recognising that it may be found beyond existing settlements. The applicant has failed to demonstrate with a strong business plan how the proposed holiday units would support tourism and its related uses in the area, and be planned on a robust, viable financial basis. Consequently, the application fails to accord with paras 84 and 85 of the NPPF, Policy CS06 and CS10 of the Core Strategy 2011 and Policy DM3 and DM6 of the Site Allocations and Development Management Policies Plan 2016.
- 3 Para 79 and 80 of the NPPF seeks to restrict residential development outside towns and villages to those that will enhance the vitality of rural communities or dwellings essential to the functioning of rural enterprises where it can be demonstrated that the need for the proposed dwelling could not be met within by an existing dwelling or settlement. The proposal has failed to demonstrate that the needs of the proposed new business could not be met by an alternative dwelling in the locality, nor that the proposed enterprise has been planned on a sound financial basis. The proposal is therefore contrary to Para 79 and 80 of the NPPF, Policy CS02, CS06 and CS08 of the Core Strategy 2011 and Policy DM2 and DM6 of the Site Allocations and Development Management Policies Plan 2016.