

**AGENDA ITEM NO. 9/2(a)**

<b>Parish:</b>	<b>Burnham Market</b>	
<b>Proposal:</b>	<b>Application for 2no. dwellings and an agricultural barn, demolition and clearance of existing buildings and structures, and associated works.</b>	
<b>Location:</b>	<b>Overy Road Nurseries Overy Road Burnham Market King's Lynn PE31 8HH</b>	
<b>Applicant:</b>	<b>Mr And Mrs Smith</b>	
<b>Case No:</b>	<b>23/00103/F (Full Application)</b>	
<b>Case Officer:</b>	<b>Lucy Smith</b>	<b>Date for Determination: 10 April 2023 Extension of Time Expiry Date: 8 September 2023</b>

**Reason for Referral to Planning Committee** – Called in by Cllr Sandell

**Neighbourhood Plan:** Yes

**Case Summary**

Full planning permission is sought for the construction of 2 dwellings and an agricultural barn at Overy Road Nurseries, Overy Road, Burnham Market. Existing greenhouses and structures to the rear of the site, associated with the site's previous use as a nursery would be demolished to enable the construction of the barn, with the proposed dwellings to the front of the site.

The site is immediately adjacent to the Burnham Market Conservation Area, 250m from the Burnham Overy Town Conservation Area and outside of the Burnham Market Development Boundary shown on Inset Map G17 of the SADMPP (2016). The land is therefore considered to be within the wider countryside for the purposes of planning policy.

The site is within the Norfolk Coast National Landscape and is within an area at risk of flooding in the 0.5% annual exceedance probability event including climate change (Future Flood Zone 3).

**Key Issues**

Principle of Development  
Design and Impact on the Conservation Area  
Impact on Neighbours  
Highway Safety  
Flood Risk  
Other material considerations

**Recommendation**

**REFUSE**

## **THE APPLICATION**

Full planning permission is sought for the construction of 2 dwellings and an agricultural barn at Overy Road Nurseries, Overy Road, Burnham Market. Existing greenhouses and structures to the rear of the site, associated with the site's previous use as a nursery would be demolished to enable the construction of the barn, with the proposed dwellings to the front of the site.

The site is immediately adjacent to the Burnham Market Conservation Area, 250m from the Burnham Overy Town Conservation Area and outside of the Burnham Market Development Boundary shown on Inset Map G17 of the SADMPP (2016). The land is therefore considered to be within the wider countryside for the purposes of planning policy.

The site is within the Norfolk Coast National Landscape and is within an area at risk of flooding in the 0.5% annual exceedance probability event including climate change (Future Flood Zone 3).

The application site encompasses approximately 0.82 hectares of land currently occupied by a number of disused agricultural buildings and a former garage. The west and east boundaries are formed primarily of mature hedging and trees, and the north boundary adjoining Mill Road is only thinly hedged and largely open, allowing views of the raised site from the highway.

The dwellings proposed as part of this application are two storey detached properties with attached garages. Each property has three bedrooms and both units are of similar design, although plot one is orientated to have its front elevation facing west, which results in minor changes to fenestration compared to plot 2, which fronts Mill Road.

The dwellings are modern in proportion and window detailing and proportions further detail the dwellings as modern/contemporary units. The properties are proposed with two elevations of flint with brick quoins and more basic facing brickwork to the remaining elevations.

Whilst an agricultural barn is proposed as part of this application, the dwellings are not proposed to be tied to or occupied in connection with any existing agricultural business.

The agricultural barn is proposed to be sited to the rear of the dwellings behind an existing hedgerow, shown to be removed and replaced with planting as part of this proposal. The building is proposed as a relatively low pitch utilitarian character building, to be clad in natural timber with a corrugated metal roof. This element of the proposal will be largely screened from view by existing and proposed landscaping and will accord with the rural character of fields in the wider vicinity.

The agricultural barn will be used in conjunction with the existing and ongoing farming business operated by the Applicant. The need to locate the barn to the rear, and within view of the dwellings, reflects concerns of security and a desire to protect significant pieces of equipment.

## **SUPPORTING CASE**

I write in respect of the abovementioned planning application which is to be considered by Members at planning committee on 5th February 2024. I understand it is to be recommended for refusal. I write on behalf of the applicant's Mr and Mrs Smith. At the time

of writing, I do not know the detail of the reasons for refusal, but I understand the broad topics to be heritage and lack of supporting archaeological trial trenching.

#### Heritage

There is clearly a difference of opinions between the Council's Principal Conservation Officer and the Heritage Consultant (who prepared the Heritage Impact Statement). The Conservation Officer considers that the proposal will have 'a moderate level of less than substantial harm...of the conservation areas'; and the Heritage Consultant considers that there will be 'no harmful effects to the special interest of the conservation areas'. The comments and report are available to view and will be summarised in the officer's report, so I will not regurgitate both arguments here. However, I will note that heritage impact is a subjective topic and should be considered as part of a balanced planning decision, albeit that they all agree on the benefits in removal of the visual detractors in the AONB.

#### Archaeology

There are two letters on file from the Historic Environment Service (HES), one dated 30th November 2023 and the other dated 7th December 2023. The initial response proposes a planning condition to secure a post determination programme of archaeological mitigatory work, starting with informative trial trenching. The later letter proposes that the lack of information submitted in respect of archaeological works be added as a reason for refusal. Other than the passage of time it is not clear what has changed in the 7 day period between the two letters. It is our view that this should not constitute a reason for refusal and the 'no development/demolition' condition proposed by the HES in their letter of 30th November is all that is required to secure appropriate archaeological works. The applicants are willing to undertake this work, but understandably they would want the security of having a planning permission before doing so given the cost.

#### Conclusion

Ultimately the acceptance or otherwise of the proposed dwellings comes down to the benefits that the scheme can provide when balanced against the potential impacts. Local people struggle to be able to afford homes in Burnham Market and with significant growth in second homes there are few opportunities for renting long term. The proposal is for two self-build properties and an agricultural barn which the applicant's children will live in and the applicants will use respectively, as part of their farm. As made clear in the applicant's supporting statement their families have a long history of living in area dating as far back as the 1740's. These dwellings and the barn will provide much needed affordable accommodation for their family to continue to live and work in the area for years to come. The proposal will tidy up the site and there will be no detrimental landscape impacts. It is my view that the benefits outweigh any perceived heritage impacts, and that the development is appropriate for the site. It should be noted that the Parish Council supports this application, as does a local Member. Further to this all the letters of representation support the application, of which there are a significant number for a scheme of this size'

## **PLANNING HISTORY**

09/02016/O: Application Refused: 29/01/10 - Outline application for agricultural dwelling, retail unit and associated new entrance and car park - Overy Road Nurseries

09/00978/O: Application Withdrawn: 19/08/09 - Proposed agricultural dwelling, retail unit and associated new entrance and car park - Overy Road Nurseries

04/00967/F: Application Permitted: 06/07/04 - Construction of retail unit - Overy Nurseries

2/03/1180/F: Application Permitted: 28/07/03 - Erection of replacement wooden store/workshop - The Nursery  
Overy Road

## **RESPONSE TO CONSULTATION**

**Parish Council: SUPPORT, subject to condition** with the following comments:

'The Parish Council wishes to support local families to find local homes in order to contribute to a thriving community. However, the Parish Council also has a duty to heed the concerns of the Conservation Officer, particularly with regard to urban creep and inappropriate design in a sensitive rural environment. The Burnham Market Neighbourhood plan sets out in some detail, via the Design Codes, how a new dwelling should be designed, in order to hopefully enhance but certainly not to harm the character of the village. The Parish Council would ask that if the Planning Committee decides to approve this application, that a condition be applied to prevent the properties being sold to a third party who has no local connection to the village; this would be in addition to the Principal Residence Policy, applied by default, which forms part of the NP. In this way, it is hoped, these dwellings will always be available for local people and as such contribute in a positive way to the local community.'

**Highways Authority: NO OBJECTION** subject to standard access/turning area conditions.

**Environmental Health & Housing - Environmental Quality: NO OBJECTION** recommended condition for unexpected contamination and asbestos informative.

**Environment Agency: NO OBJECTION, however drawing attention to Future Flood Risk issues** as follows:

'We have reviewed the documents as submitted and can confirm we remove our objection to this planning application.

Our maps show the site boundary lies within tidal Flood Zone 2 defined by the 'Planning Practice Guidance: Flood Risk and Coastal Change' as having a medium probability of flooding. The proposal is for the construction of two new residential dwellings and an agricultural barn which is classified as a 'more vulnerable' development, as defined in Annex 3:Flood Vulnerability Classification of the National Planning Policy Framework (NPPF).

We are satisfied that the flood risk assessment, referenced 0344/FRADS and dated October 2023, provides you with the information necessary to make an informed decision.

In particular:

- All proposed built development has been sequentially sited within Flood Zone 1. However, although the development is sited within present-day Flood Zone 1, the entire site lies within future Flood Zone 3 and is at risk of flooding in the 0.5% annual exceedance probability event including climate change.
- Finished ground floor levels for the 2 residential dwellings have been proposed at 6.75mAOD. This is below the 'design' flood level of 6.80 mAOD and therefore the development is at risk of flooding internally to a depth of 0.05m in this event.

We are not objecting to this application as the development has been sequentially sited within Flood Zone 1, however you should strongly consider the future flood risk to the development when making your decision.'

**Conservation Officer: OBJECTION** The Conservation Team provided in-depth comments in regards to the position of the development and its design. For ease, these comments are discussed in depth within the report.

**Historic Environment Service: OBJECTION, in the absence of Trial Trenching** with the following comments:

'Our original advice given May 2022 was that pre-determination archaeological evaluation by trial trenching is required in accordance with NPPF.

The application site is in an area where there is ample evidence of an important settlement and probably trading site of Anglo-Saxon date and constitutes an archaeological site of at least regional importance.

Archaeological work is required pre-determination as mitigation through design changes may be required and the overall feasibility of the proposed scheme as deliverable development may need to be assessed.

We recommended pre-determination archaeological evaluation by trial trenching again in February 2023.

We have had no engagement with the applicants, or anyone acting on their behalf. To our knowledge no archaeological work has taken place on the site.

We therefore consider that lack of the required archaeological evaluation could constitute additional ground for refusal.'

## **REPRESENTATIONS**

**EIGHTY** Letters of **SUPPORT** (across three rounds of consultation), summarised as follows:

- Proposal does not diminish gap between settlements
- Increased set back of houses improves views of Sutton House
- Tidying the site will improve overall view
- Loss of existing greenhouses and surrounding structures is a planning gain
- Modest self-build homes will allow young people to stay in the area
- Small scale proposal is in-keeping with location
- Demands and expectations from the Conservation Officers and Environment Agency are unreasonable
- Site has been in the family for generations and the applicants remain local
- Small horticultural use unlikely to be viable going forwards
- will not lead to light pollution
- traffic from the site will be manageable
- request for control on occupation and ownership to those who live and work in the area
- Houses would appear as part of the Sutton House complex

## **LDF CORE STRATEGY POLICIES**

**CS01** - Spatial Strategy

**CS02** - The Settlement Hierarchy

**CS06** - Development in Rural Areas

**CS08** - Sustainable Development

**CS12** - Environmental Assets

## **SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016**

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

**DM2** – Development Boundaries

**DM15** – Environment, Design and Amenity

## **NEIGHBOURHOOD PLAN POLICIES**

**Policy 3:** Second Homes and Furnished Holiday Lets

**Policy 6:** Design

**Policy 8:** Biodiversity and Green Corridors

**Policy 15:** Burnham Market Conservation Area

## **NATIONAL GUIDANCE**

National Planning Policy Framework (NPPF)  
Planning Practice Guidance (PPG)  
National Design Guide 2021

## **PLANNING CONSIDERATIONS**

**The main considerations are:**

- Principle of Development
- Design and Impact on the Conservation Area
- Impact on Neighbours
- Highway Safety
- Flood Risk
- Other material considerations

**Principle of Development:**

Two new dwellings and an agricultural storage barn are proposed on land previously used for agricultural purposes in association with a nursery. Existing redundant greenhouses are to the rear of the site alongside other smaller derelict buildings. There is no evidence submitted with the application demonstrating that the land is used in connection with an agricultural or horticultural enterprise.

The construction of a barn for agricultural purposes would be in line with economic development policies at both a local and national level.

In regards to the residential element of the proposal, Burnham Market is categorised as a Key Rural Service Centre in Policy CS02 of the Core Strategy (2011). As a result, the settlement benefits from a Development Boundary to guide development to the most suitable locations.

This application site is outside of the development boundary which ends around 215m to the west of the site adjacent to houses known as The Old Rectory and Eastgate House and therefore within the wider countryside for the purposes of planning policy.

The starting point for consideration of a planning application is the development plan, and planning legislation dictates that planning decisions should be made in accordance with the development plan unless material considerations clearly dictate otherwise. The Borough Council's Core Strategy (2011) and Site Allocations and Development Management Policies Plan (2016) set out a strong presumption against new residential development in the countryside.

Countryside protection policies apply in line with Policies CS02 and CS06 of the Core Strategy (2011) and Policy DM2 of the SADMPP (2016).

Within their planning statement, the Agent acknowledges the site's position outside of the development boundary and in a location which is at odds with the Development Plan however sets out the following in an attempt to overcome this concern: self build provision, the re-use of brownfield land, and the tidying of the site.

#### *Self-Build*

The Agent states the houses will be self-build units that will go towards the Borough Council's current supply. It is acknowledged that current forecasts indicate a limited shortfall in supply of self-build permissions and further, it is accepted that the 2023 Levelling Up and Regeneration Act (LURA) changes the legal obligations for the Borough Council in relation to the supply and monitoring of sites for Custom and Self-Build Housing. LURA places additional obligations upon the Borough Council, to permit sufficient housing land explicitly for the purposes of delivering SB&C housing **however the Council must consider its statutory obligations as a whole, with reference to LURA but also to other material considerations such as the legal duty to preserve and enhance Conservation Areas under the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 72, as amended and the great weight given to conserving and enhancing National Landscapes in accordance with NPPF para 182.**

Furthermore, the NPPF explains in footnote 29, that the Self Build and Custom Housebuilding Act 2015, (as amended recently by the LURA), places a legal duty "to give enough **suitable** development permissions to meet the identified demand". The requirement that permissions need to be suitable means that the need to grant planning permission to meet demand for SB&C housing plots does not eliminate the need to consider the suitability of the site in other respects – for example, the need to outweigh the harm to heritage assets for which there is a duty to preserve and enhance, as required by both the LBCA and NPPF (section 16) and great weight given to conserving and enhancing National Landscapes in accordance with NPPF para 182.

For the reasons outlined throughout this report, the custom and self-build nature of the dwellings proposed attracts minimal weight and does not outweigh the harm caused by this proposal or the primacy of the Development Plan.

#### *Re-use of Brownfield Land*

Evidence submitted during the course of this application shows a small part of the site was historically used for vehicle storage including scrap vehicles and for MOTs. A small building (approx. 68m<sup>2</sup> and less than 1% of the total site area) immediately north of the greenhouses is the only remaining evidence of this use being on site, with the other buildings removed

following storm damage in the 1990s/early 2000s. There is no obvious curtilage around the MOT building and it is clear that the site as a whole has naturalised to an extent **that it would not be considered previously developed land for the purposes of the NPPF (2023)**.

Also of note is that the houses proposed under this application do not overlap with the footprint of the MOT building. As a whole, the proposed houses therefore cannot be considered to constitute the repurposing or reuse of previously developed land.

Notwithstanding the fact that this cannot be considered the redevelopment of previously developed land, the NPPF at paragraph 124 sets out that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes. As per the discussion above, the wording of the policy dictates that the land must be suitable in other respects, as well as being within a settlement. The site complies with neither part of this policy and as a result, no weight is attached to the assertion that the land is previously developed.

#### *Tidying of the Land*

The Agent further sets out that the removal of the existing structures will have a positive benefit on the landscape stating that this should provide some benefit to outweigh the material policy contradictions above.

Whilst the Conservation Team have noted there is some benefit from the removal of these structures, greenhouses and agricultural buildings are a typical sight in the countryside and the visual appearance of the structures is not so significantly beneficial to the landscape as to justify the construction of housing in this position. **There is no premium on neglect** – the buildings could just be demolished or maintained/repared. No weight is attached to the argument that the site would be tidied up as a result of this proposal.

#### *Conclusion on the Principle of Development*

Paragraph 83 sets out clearly that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The additional justification provided by the Agent does not adequately or appropriately justify the provision of two additional dwellings outside of the development boundary and in an area which is not supported by the Local Plan. Further, the land is not isolated and paragraph 84 of the NPPF (2023) does not apply.

Whilst there are houses immediately adjacent to the application site, the character of this part of Burnham Market is increasingly rural and there exists a striking divide between the edge of main built extent of Burnham Market and this application site which is further pronounced as a result of the verdant character of street frontages and the wider expanses of agricultural land and paddock land which divide the site from the settlement itself. The existence of a footpath link from the site to the main built extent of the settlement does not render the application site a suitable place to build additional dwellings.

For reasons outlined above, the principle of development on site is at odds with the NPPF (2023), Policies CS01, CS02 and CS06 of the Core Strategy (2011), Policies DM1 and DM2 of the SADMPP (2016). The justification provided as part of this application does not outweigh or overcome the policy provisions discussed above in regard to providing for the sustainable development of new housing in appropriate locations.



## **Design and Impact on the Conservation Area and National Landscape:**

The application site is immediately outside of the Burnham Market Conservation Area and in proximity to the edge of the Burnham Overy Town Conservation Area which is separated from this site by one field (approx. 250m east). This places the site in a position where development could lead to impacts on the setting of either (or both) conservation areas whilst also impacting on the existing rural gap between the settlements. The small gap between the two distinct villages is important to the sense of identity to each village and the erosion of this gap, in particular through development of a residential nature and an inappropriate form, would be detrimental to the character and significance of each village.

Whilst the Burnham Market Neighbourhood Plan (NP) sets out various design parameters for each character area, the site is outside of any classification and in the wider countryside. The Neighbourhood Plan does not set out specific requirements for the design or character of development outside the four character areas, however it is clear that the design of dwellings should comply with the overarching design and conservation area policies throughout the development plan as a whole.

Policy 6 of the NP relates to design and requires the use of the Design Codes and Checklist as part of consideration of planning applications.

The checklist includes consideration of maintaining or enhancing identified views, impacts on landscape quality, impacts on tranquillity of the area, respecting the existing gaps between settlements, consideration of building layouts, heights and rooflines, materials and surfacing, architectural details etc.

The site is immediately adjacent to Burnham Market Conservation Area and also adjacent to important unlisted buildings within it (Sutton House). Page 7 of the Conservation Area Character Statement makes it clear that Overy Road 'is the main eastern approach from Wells across the Burn Valley' and 'Sutton House forms the centrepiece of the first isolated group of traditional buildings' on entrance to the village. It is clear that Sutton House is the gateway to Burnham Market from the east and its traditional proportions and chimneys are visible on approach from Burnham Overy Town and contribute to the character of the edge of the Conservation Area.

Paragraph 013 of the Historic Environment PPG is clear that the impact upon setting can come from an understanding of the historic relationship between places and it is not dependent on there being a public viewpoint. The site is an important piece of land which forms a rural gateway to the village whilst also forming part of the rural gap between Burnham Market and the nearby settlement Burnham Overy Town.

The space between the two villages has historically been of an agricultural character primarily of agricultural uses. The nursery buildings and its associated buildings erected in the 1970s are only a relatively short lived use of the site that involved only limited overall impact. The main greenhouse buildings were set back behind the established conifer hedge and those which protruded forward of that point were smaller and more utilitarian in their use and appearance.

The front of the site is currently unoccupied and the lack of built form preserves the open character of this edge of settlement location whilst also maintaining Sutton House's position as the key gateway into the village. The building of two dwellings on open land would impact on the open setting of the Conservation Area as well as the significance of the two important unlisted buildings. This would create a creep effect of the village into the countryside and past the historic boundaries and therefore adversely impact on the setting and significance of the adjacent heritage assets.

Notwithstanding the in principle objections to the siting of dwellings in this location, considerable discussion into the design of the dwellings took place during the course of the application however no significant amendments were submitted to overcome the concerns raised. A Heritage Impact Assessment was provided in an attempt to overcome the concerns however does not outweigh or otherwise overcome the issues at hand.

The design of a proposal is expected to be sympathetic to local character and history, including the surrounding built environment and its landscaping setting as required by Paragraph 135 of the NPPF (2023).

Notwithstanding the above discussion of the layout and position of the dwellings and the provision of dwellings on this site in principle, the design of the dwellings is standard and fails to show a regard to the traditional scale and proportions found elsewhere in the village, in particular within vicinity of the proposed site. Windows in traditional buildings tend to be sash or smaller casement windows and the proposed dwellings are at odds with this, resulting in a basic more contemporary feel which when combined with the use of flint in this part of the village is not considered appropriate.

Policy 15 of the NP sets out that the setting of the Conservation Area should be protected from development that adversely affects views into and out of the area and further defines how the mix of building types and their arrangement should be considered. The policy specifies that particular regard should be given to the effect of proposals on the significance of important unlisted buildings, include the dwellings immediately west of the site.

Whilst the Conservation Team consider there will be some benefit to the Conservation Area from the removal of the existing nursery buildings on site, there is no premium on neglect – the buildings could just be demolished, maintained or repaired. Whilst the removal of the disused greenhouse and subsequent tidying of the Land would have some minor conservation and national landscape gain through restoration of the site, it does not justify the creation of two dwellings outside of the development boundary.

The proposed large detached dwellings would result in a skewed hierarchy of dwellings which puts large detached dwellings in an edge of village location where historically this has not been present. This will lead to harm to both the Conservation Area and the character of the countryside. The inappropriate design and use of materials will lead to further harm to the street scene and the Conservation Area. The associated impacts would also lead to a degree of harm to the National Landscape through the expansion of dwellings beyond the existing settlement limits and loss of a verdant gap. The NPPF (para 182) requires that great weight should be given to conserving and enhancing the landscape and beauty in National Landscapes which have the highest status of protection in relation to these issues.

The agricultural building is sited behind an existing hedgerow and would not impact on the setting or significance of the Conservation Area. The provision of an agricultural barn in such a position would be considered to comply with the relevant policies discusses above.

The proposal would result in a moderate level of less than substantial harm to the setting and significance of the Burnham Market and Burnham Overy Town Conservation Areas and fails to comply with the design parameters set out within the Neighbourhood Plan. The creep of built form of an unsatisfactory design into the countryside and the erosion of historic boundaries of the village and the associated harm to the Conservation Area would not be outweighed by any wider public benefit of the proposal. The proposal would also not conserve or enhance the National Landscape, to which great weight is given to its protection. The application is therefore at odds with Paragraphs 182 and 208 of the NPPF

(2023), the Burnham Market Neighbourhood Plan Policies 6 and 15 and Policies CS08 and CS12 and DM15 of the Local Plan.

## **Archaeology**

The development proposal affects a site of considerable archaeological potential. The proposed new dwellings lie within an area where numerous finds of pottery and metal work of Middle Anglo-Saxon date have been recovered along with considerable quantities of artefacts of Roman, Early and Late Anglo-Saxon date. All of this amounts to considerable evidence of settlement and possibly craft production and trading activities.

The desirability of preserving archaeological remains, whether scheduled or unscheduled is a material planning consideration and developers and local authorities should take into account archaeological considerations from the beginning of the development control process.

Footnote 72 of the NPPF sets out that Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets. The Glossary defines Archaeological Interest as holding, on in this case potentially holding, evidence of past human activity worthy of expert investigation at some point.

Despite a request at Pre-Application Stage by the Historic Environment Service (HES) for trial trenching on site prior to the submission of the application, no such works have taken place to support this application and the archaeological implications of the development are therefore unknown. A desk-based exercise, which are sometimes requested by HES would not be appropriate in this instance and would be unlikely to provide any further information about the presence, form, surviving condition and significance of any heritage assets (buried archaeological remains) at the development site.

The application site is in an area where there is ample evidence of an important settlement and probably trading site of Anglo-Saxon date and constitutes an archaeological site of at least regional importance. In this instance, Archaeological work is required pre-determination as mitigation through design changes may be required and the overall feasibility of the proposed scheme as deliverable development may need to be assessed.

In the absence of trial trenching, insufficient information has been provided to show that the development will not harm archaeological assets of regional significance. This is subject to the full weight of policy which applies to designated heritage assets under the NPPF. Under this policy substantial harm to or loss of should be wholly exceptional. Without trial trenching taking place, full assessment of the degree of harm cannot take place.

It would not be reasonable to impose pre-commencement conditions on this consent to control trial trenching as the possibility for finds of regional significance in archaeological terms has a very high potential to result in requirements to change the design/layout of the scheme.

The application is therefore at odds with Section 16 of the NPPF (2023) and conflicts with the aims of the Local Plan in regard to protecting heritage assets, in particular Policies CS08 and CS12 of the Core Strategy (2011) and Policy DM15 of the SADMPP (2016).

## **Impact on Neighbours**

As a result of the positioning of the houses in relation to neighbours, the proposal would not lead to any significant impact on the amenity of adjoining properties.

The agricultural barn is proposed for storage purposes only and could be suitably conditioned to prevent adverse impacts in regards to noise and disturbance on nearby residential uses.

The impact on neighbours and residential amenity is therefore considered acceptable and complies with the NPPF, Policy CS08 of the Core Strategy (2011), and Policy DM15 of the SADMPP (2016).

### **Highway Safety:**

Access to the site is proposed via improvements to the existing centralised access to Overy Road/Mill Road, with parking and turning area proposed to meet the relevant requirements. The proposed development of 2 dwellings with an associated agricultural barn would be an acceptable reuse, subject an ongoing synergy between the residential and agricultural uses, the resurfacing of the access to cater for the agricultural vehicles stored within the site, along with adequate parking and turning within the site.

Conditions have been recommended by the LHA to ensure the highway safety implications are acceptable for the lifetime of the development.

The application complies with the paragraphs 114 and 116 of the NPPF, Policies CS08, CS10 and DM15 of the Local Plan and Policy 7 of the Burnham Market Neighbourhood Plan in regard to highway safety and access.

### **Flood Risk:**

The key area for concern within the submitted Flood Risk Assessment is Fluvial Flooding.

The site is mainly located within Flood Zone 1 however the southwest corner of the site is within current Flood Zone 2 as defined by the PPG Flood Risk and Coastal Change as having a medium probability of flooding. The proposal is for the construction of two new dwellings and an agricultural barn which as a whole is considered more vulnerable development as per Annex 3 of the NPPF.

Whilst all proposed build development is sited in current Flood Zone 1, the entire site lies within Future Flood Zone 3 and the site is at risk of flooding in the 0.5% annual exceedance probability event including climate change.

Finished ground floor levels for the 2 residential dwellings have been proposed at 6.75mAOD. This is below the design' flood level of 6.80 mAOD noted by the EA within their response and therefore the development is at risk of flooding internally to a depth of 0.05m in this event. The FRA goes on to state various flood resilience measures which could alleviate some damage caused in the event of floodwater entering the property which could be controlled via condition.

The NPPF and PPG set out that all sources of flooding should be considered as part of a planning application, this includes increased flood risk in the future.

Whilst the EA do not object due to the current FRA indicating the development is within Flood Zone 1, it is the LPA's responsibility to consider future flood risk whilst making the decision.

Paragraph 168 of the NPPF sets out that the sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

The access to the application site and the north portion of the site is within the Tidal 0.1% Annual Exceedance Probability, and the parts of the proposed dwellings are within Tidal 0.5% Annual Exceedance Probability.

The Environment Agency confirm that they consider the application site to be at risk of flooding in the future (Future Flood Zone 3). This is a material consideration when considering the suitability of the land for housing and the Sequential Test must be applied.

The vast majority of Burnham Market is not at risk of flooding in the future and opportunity therefore exists for dwellings to be constructed at a lower risk of flooding.

The application therefore fails the sequential test and the proposal is at odds with Paragraph 165 and 168 of the NPPF (2023) in regards to flood risk. As the development fails the sequential test, there is no requirement for the LPA to consider the exceptions test as per Paragraph 169 of the NPPF (2023).

#### **Other material considerations:**

#### **Specific comments and issues:**

Principal Residences - Burnham Market Neighbourhood Plan Policy 3 includes a Principal Residence requirement. Were this application to be approved a S106 and Planning Condition would be required to control compliance with this policy.

Contamination - The information submitted to support this application does not indicate the presence of significant land contamination. However, the former use as a workshop means that it's possible that some unexpected contamination could be present. An unexpected contamination condition could be applied were this application to be approved in order to comply with the NPPF and CS12. An asbestos informative is also recommended due to the age of the existing buildings on site.

Trees – Various trees and hedgerows are existing on site. In light of the lack of detailed landscaping and replacement planting schemes, conditions could be used to ensure suitably replacement planting details come forward before any existing trees are removed from site. This complies with the aims of the Neighbourhood Plan in regards to loss of trees.

#### **Response to Parish Council**

The Parish Council requested that if Planning Committee were to approve this application, conditions are used to ensure that the dwellings are retained in the ownership/occupation of those with a local connection to the village. There is no policy requirement for such a control to be put in place and therefore, the proposed dwellings cannot be controlled or restricted in terms of their ownership by local people. The dwellings would be typical market dwellings with the standard principal residency policy applied.

#### **Response to Neighbour Support Letters**

The majority of issues raised within neighbour representations are discussed in depth within the report. In response to comments on the provision of self-build housing for a local family which will allow family members to remain in the community, whilst these comments are noted, this is not a material planning consideration which has weight in a planning decision. The self-build element of the proposal is discussed in depth above.

Comments on the requests for additional information from the Environment Agency and discussion with the Conservation Team are also noted. There is a requirement for a Flood Risk Assessment to be provided where a proposal is at risk of flooding. This applies to all sites for this type of development. The request for amendments and a Heritage Impact Assessment were to overcome specific concerns raised by the Conservation Team to allow full consideration of this proposal. Neither of these requests are considered unreasonable given the nature of this application and the lack of information originally submitted.

### **Biodiversity and Ecology**

A preliminary ecological appraisal was submitted to support this application and sets out various construction and management controls to prevent adverse impacts on habitats, birds, reptiles etc. A reptile mitigation strategy can be specifically conditioned to control impacts during construction.

The Neighbourhood Plan, which has been finalised during the course of this application, sets out measures for 10% Biodiversity Net Gain however no clear indication has been provided during the course of this application to specify how this can be achieved.

Significant greenspace is being retained at the southern portion of the site (approx. 0.5ha) which could be utilised to demonstrate the required 10% biodiversity net gain if this application were to be approved. This land is proposed to be retained as non-domestic land and therefore allows flexibility for various biodiversity improvements to be made to the current agricultural land.

### *GIRAMs*

The Green Infrastructure and Recreational Avoidance Mitigation Strategy Fee was paid on submission of this application to prevent adverse impacts on the Zone of Influence outlined as part of the study. The application site is within the ZOI for The North Norfolk Coast and The Wash SAC/SPA/RAMSARs, however an appropriate assessment has taken place in line with the approach agreed with Natural England, and it is considered that planning permission can be granted as adverse effects can be ruled out.

### **CONCLUSION:**

The NPPF reiterates the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 which states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

The material considerations advanced by the agent, namely the benefits of self-build housing, the use of previously developed land and the tidying of the site, do not provide strong material planning considerations which would outweigh the overall conflicts with the spatial strategy and development plan in regards to the position of housing and sustainable development.

The application includes the construction of two dwellings on land which is outside of the development boundary and no sufficient justification has been provided to outweigh the conflicts with the development plan, in particular Policy DM2 of the SADMPP (2016). The site is not in a suitable position and the construction of additional houses in this location is considered likely to adversely consolidate the built form to the detriment of the countryside, form and character and lead to the partial loss of an existing gap between the settlements of Burnham Market and Burnham Overy Town.

The proposed design of the dwellings would also result in a moderate level of less than substantial harm to the setting and significance of the Burnham Market and Burnham Overy Town Conservation Areas and fails to comply with the design parameters set out within the Neighbourhood Plan. The creep of built form of an unsatisfactory design into the countryside and the erosion of historic boundaries of the village and the associated harm to the Conservation Area would not be outweighed by any wider public benefit of the proposal. The proposal would also not conserve or enhance the National Landscape, to which great weight is given to its protection. The application is therefore at odds with Paragraphs 182 and 208 of the NPPF (2023), the Burnham Market Neighbourhood Plan Policies 6 and 15 and Policies CS12 and DM15 of the Local Plan.

Thirdly, in the absence of trial trenching, insufficient information has been provided to show that the development will not harm archaeological assets of regional significance. As per the provisions of the NPPF, substantial harm to or loss of potential archaeological assets should be wholly exceptional. Without trial trenching taking place, full assessment of the degree of harm cannot take place. The application is therefore at odds with Section 16 of the NPPF (2023) and conflicts with the aims of the Local Plan and Neighbourhood Plan in regards to protecting heritage assets.

The EA consider the site to be within Future Flood Zone 3 and the access to the application site, the north portion of the site is within the Tidal 0.1% Annual Exceedance Probability including Climate Change flood risk area, and parts of the proposed dwellings are within Tidal 0.5% Annual Exceedance Probability including climate change and the proposed more vulnerable use is therefore at risk of flooding. Notwithstanding the fact that the above considerations confirm the development is not necessary (as per Paragraph 165), as land is available within Burnham Market which is not at an identified risk of flooding now or in the future, the application fails the sequential test and approval would be at odds with Paragraph 168.

Whilst the application would result in the removal of disused and redundant greenhouses which are currently visible on approach towards the site, there is no premium on neglect and the minor gain resulting from the removal of the structures would not outweigh the conflicts with the policies discussed throughout this report.

The application proposes inappropriate development in the countryside which is at odds with the overarching aims of the NPPF (2023), Policies CS01, CS02, CS06, CS08 and CS12 of the Core Strategy (2011), Policies DM1, DM2 and DM15 of the Site Allocations and Development Management Policies Plan (2016) and Policy 6 and 15 of the Burnham Market Neighbourhood Plan and is recommended for refusal on the following grounds.

## **RECOMMENDATION:**

**REFUSE** for the following reason(s):

- 1 Residential development in the countryside is strictly controlled by the Local Plan in order to provide for sustainable development in line with the aims of the NPPF (2023). The application includes the construction of two dwellings on land which is outside of the development boundary and no strong material planning reasons have been advanced to outweigh the conflicts with the development plan, in particular Policy DM2 of the SADMP (2016). The site is not considered to be in a suitable position for housing and the principle of development is therefore at odds with the requirements of

the NPPF (2023), Policies CS01, CS02 and CS06 of the Core Strategy (2011) and Policy DM2 of the SADMPP (2016).

- 2 By reason of poor design which fails to take into account local character and history, the proposal would result in a moderate level of less than substantial harm to the setting and significance of the Burnham Market and Burnham Overy Town Conservation Areas and fails to comply with the design parameters set out within the Burnham Market Neighbourhood Plan. The creep of built form of an unsatisfactory design into the countryside and the erosion of historic boundaries of the village and the associated harm to the Conservation Area would not be outweighed by any wider public benefit of the proposal. The proposal would also not conserve or enhance the National Landscape, to which great weight is given to its protection. The application is therefore at odds with Paragraphs 182 and 208 of the NPPF (2023) and Policies 6 and 15 of the Burnham Market Neighbourhood Plan and Policies CS08, CS12 and DM15 of the Local Plan.
- 3 In the absence of trial trenching, insufficient information has been provided to show that the development will not harm archaeological assets of regional significance. As per the provisions of the NPPF, substantial harm to or loss of potential archaeological assets should be wholly exceptional. Without trial trenching taking place, full assessment of the degree of harm cannot take place. The application is therefore at odds with Section 16 of the NPPF (2023) and conflicts with the aims of the Local Plan in regards to protecting heritage assets, in particular Policies CS08 and CS12 of the Core Strategy (2011), and Policy DM15 of the SADMPP (2016).
- 4 The application site boundary is within Future Flood Zone 3, the north portion of the site is within the Tidal 0.1% Annual Exceedance Probability including Climate Change flood risk area, and parts of the proposed dwellings are within Tidal 0.5% Annual Exceedance Probability including climate change and the proposed more vulnerable use is therefore at risk of flooding. As land is available within Burnham Market which is not at an identified risk of flooding now or in the future, the application fails the sequential test and approval would be at odds with Paragraph 168 of the NPPF (2023) and Policy CS08 of the Core Strategy (2011).