

<b>Parish:</b>	<b>Pentney</b>	
<b>Proposal:</b>	<b>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</b>	
<b>Location:</b>	<b>Oakland Gardens Main Road Pentney Norfolk PE32 1FG</b>	
<b>Applicant:</b>	<b>Oakland Gardens</b>	
<b>Case No:</b>	<b>21/02392/OM (Outline Application - Major Development)</b>	
<b>Case Officer:</b>	<b>Clare Harpham</b>	<b>Date for Determination: 20 April 2022</b>

**Reason for Referral to Planning Committee** – The application was called in to Planning Committee by the Assistant Director of Environment and Planning due to the scale of the issues it raises.

The application was deferred at the February 2023 Planning Committee to enable the applicant to submitted further information relating to ecology.

**Neighbourhood Plan:** No

### **Case Summary**

Members may recall this application was first heard at Planning Committee in February 2023 when it was deferred to enable the applicant to provide further information relating to protected species surveys. Due to the passage of time and information submitted, a new committee report has been written.

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 holiday lodges (indicative plan shows eight), 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 and full details are reserved matters. 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**

**APPROVE**

## **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 internal 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 as 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 original 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 (which has a condition limiting it to the distribution of gardening equipment); a wildlife and tourism lake with holiday lodges; a new temporary dwelling house; 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.

Since the application was originally considered by Planning Committee the applicant has submitted an Ecological Impact Assessment which includes a number of species surveys and a Mineral Resources Investigation as required by Norfolk CC Minerals and Waste Policy Team.

## **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

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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 Northeast 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.

Since deferral at planning committee a full ecological report has been submitted.

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**

Site history:

17/00875/F: Application Permitted (delegated decision): 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 (delegated decision): 21/06/16 - Construction of storage and distribution building in connection with horticultural business (Class B8), following

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rescinding of building approved under planning reference 11/01556/F – Oaklands Pentney Lane Pentney

14/00938/F: Application Permitted (committee with recommendation): 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 (committee overturn): 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 (delegated decision): 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

Wider site history (blue land):

17/00032/O: Application Permitted (committee overturn): 03/03/17 - Outline planning application: 3 dwellings and to upgrade North access directly onto A47 to use as permanent site entrance. – Oaklands Pentney Lane Pent

18/01150/RM: Application Permitted (delegated decision): 22/08/18 - Reserved Matters application: Three proposed dwellings - 1 Oakland Cottages Pentney Lane Pentney

A number of applications to vary conditions on the above applications.

## **RESPONSE TO CONSULTATION**

**Parish Council: SUPPORT**

**National Highways: NO OBJECTION** summarised as follows:

- Holding objection withdrawn following additional information.
- The proposal utilises the A47 which forms part of the Strategic Road Network.
- Applicant has provided additional information to address our previous concerns relating to accessing the highway and the trip generation from the proposal uses.

**Local Highways Authority (NCC): NO OBJECTION** recommended condition with summarised comment:

- Pentney Lane is not acceptable to access this application.
- Direct access to Pentney Lane would not be made.
- 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.

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**Community Safety & Neighbourhood Nuisance: NO OBJECTION** recommended condition with summarised comment:

Further details are required that can be managed sufficiently via suitably worded conditions.

- The application indicates surface water drainage is to be via a Sustainable Urban Drainage Scheme (SUDS). 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.
- Operating hours for the on-site business and external lighting should also be conditioned.

**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 out planning and byelaw strategy the proposed application does not meet our threshold for commenting.

**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 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**

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.

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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 (now GIRAMS).

**Norfolk Wildlife Trust: NO OBJECTION** suitably worded conditions are required, and comments are summarised below:

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.

Impacts on the CWS:

- The Ecological Impact Assessment (EclA) states mitigation within (para. 6.33) that signage, interpretation and an appropriate fence to protect the CWS from visitors, but allowing wildlife to pass, should be conditioned.
- Para. 1.17 of the Preliminary Ecological Assessment (PEA) recommends additional botanical surveys to be undertaken in June to confirm the absence of any notable species with the proposed development area. This would also provide additional information regarding which species are likely to inhabit the area as part of the rewilding. No further botanical information has been provided within the EclA and this should therefore be submitted at reserved matters stage.

Hydrological Impacts:

- Based upon the information within the Hydrological Assessment, we are satisfied the proposal will not have a significant adverse impact upon the River Nar SSSI.
- There is the potential that hydrological changes on site as well as the disposal of waste and surface water may impact upon the hydrological conditions and water quality on the adjacent CWS. There should consent be granted robust conditions will be required ensure that new drainage arrangements on site do not result in changes in groundwater availability or quality to the adjacent CWS.
- Para. 6.14 of the EclA states there must be co-operation with the CWS to maintain water levels. This indicates hydrological connectivity between the sites and a water-level management plan should be included as part of any consent.
- A construction management plan will be needed to ensure site surface water and ground water are managed to avoid pollution.
- The hydrological report states treated foul water will be discharged into the existing watercourse. Foul water disposal will have to be conditioned to ensure that this occurs.

Mitigation:

- Please condition the mitigation within section 6 of the EclA.

BNG

- The EIA states that the proposal will result in a 162% increase in biodiversity. The statutory biodiversity metric has not been completed in order to check this figure.

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**Senior Ecologist: OBJECT** summarised as follows:

- The original PEA (May 2022) recommended a number of surveys including a botanical survey (June), bat survey (May – Oct), bird survey (April – June), reptile survey (7 visits April-May or September) and access to water bodies to undertake an HSI (Habitat Suitability Index) and potentially eDNA for Greater Crested Newts (GCN) presence (mid-April to end of June).
- The Hydrological report (Nov 2022) concludes that the effect of the proposed lake upon surface and ground waters is anticipated to be insignificant.
- The Ecological Impact Assessment (EclA) reported bat activity of local/regional importance; breeding value of local value; reptiles of county value (slow-worm, grass snake and common lizard confirmed present); Great Crested Newts present in five waterbodies of local importance.
- Due to the presence of GCN within surrounding waterbodies (within 250m of proposed development), there is a requirement to cover the site under a suitable derogation licence from Natural England. District Level licensing is the recommended approach and the LPA only need an 'Impact Assessment and Conservation Payment Certificate' countersigned by Natural England to be submitted as evidence of site registration under this mitigation scheme.
- The NWT and ecologist request a condition to ensure boundary fencing is in place and maintained in perpetuity.
- The botanical survey (June) recommended in the PEA has not been reported within the EclA. Following discussions with the project Ecologist (Philip Parker Associates) agreement is reached that additional botanic surveys are not required. This is due to the development being moved out of areas of botanical interest.
- The foul drainage (package treatment plant) should be conditioned, and details provided as a biological system should be favoured as opposed to a chemically dosed plant. Details potentially provided at reserved matters stage.
- BNG is not a mandatory requirement for this application as it was submitted prior to BNG being in force. Notwithstanding this the ecological consultant did undertake an assessment as an exercise to demonstrate that the proposal would provide measurable gain. Securing the recommended enhancements and mitigation will ensure that a measurable gain is delivered.
- The proposals will result in an increase in overnight accommodation with the ZOI of protected European sites. There is known in combination recreational impacts for any increase in overnight accommodation. The planning officer has carried out an appropriate assessment and a GIRAMS payment will be required to support the proposal as bespoke mitigation has not been proposed. This payment will be required at reserved matters stage when the full details are known.

The Ecologist maintains her objection as the Impact Assessment and Conservation Payment Certificate which is required for the District Level Licensing has not been submitted prior to determination.

**Environmental Health & Housing - Environmental Quality (Land): NO OBJECTION** recommended conditions and summarised as follows:

The submission indicates the presence of the former railway but states 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

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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 proposal shows 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 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. The proposal would not 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 is likely to be high. EV charging infrastructure is now part of the building regulations.

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 should be provided at reserve matters stage regarding the heating systems and if heated by solid-fuel (biomass) then a communal wood store building will be required to ensure only dry wood is supplied for the guests.

The drawings show the approximate scale of the lake but does not show depth (currently). Understanding capacity helps to understand the quantity of waste material (tonnes) to be managed. The excavated material should be reused on site, to prevent additional HGV movements and related emissions will mean temporary stockpiles being created. I agree that the spoil can be managed/conditioned through the landscaping plan to ensure it remains on site, once further detail is known regarding the size and depth of 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 (not including holiday units).

**Historic Environment Service: NO OBJECTION**

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

**Norfolk Constabulary:** comments summarised as follows:

- Detailed advice given to applicant relating to Secured by Design aims.

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- Appropriate design features that enable natural surveillance should be included 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**

The proposal must meet 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.

**Minerals and Waste (NCC) NO OBJECTION**

Holding objection withdrawn following the submission of additional information.

- A condition is requested, and the response is summarised as follows:
- This response follows the submission of a Mineral Resource Investigation (MR Investigation) using intrusive site investigations to assess the quality of mineral which may be extracted during groundworks and reused during the construction phases.
- The MR Investigation concludes that on-site resources, which would be extracted as part of the groundworks, would be suitable for a range of construction activities, and that this material should be stockpiled and reused.
- The quantity of mineral to be extracted during the formation of the lake would mean that it would be a County Matter (NCC) if a significant proportion of the mineral was to leave site. We do not consider this to be the case, so long as the re-use of mineral onsite takes place as outlined within the MR Investigation.

NCC as the Mineral Planning Authority (MPA) considers the reuse of the mineral can be conditioned, which is consistent with the MR Investigation.

**REPRESENTATIONS**

**SIX** 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

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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 'disposal of flood water'. Water coming from roads, drains, households etc is considered foul water and should not go to natural watercourses, ponds etc
- 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.

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**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**

**CS02** - The Settlement Hierarchy

**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**

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

**DM2** – Development Boundaries

**DM3** - Development in the Smaller Villages and Hamlets

**DM6** - Housing Needs of Rural Workers

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**DM11** – Touring and Permanent Holiday Sites

**DM12** - Strategic Road Network

**DM15** – Environment, Design and Amenity

**DM17** - Parking Provision in New Development

**DM19** - Green Infrastructure/Habitats Monitoring & Mitigation

## **NATIONAL GUIDANCE**

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide 2021

## **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 rental units and re-sited the proposal to expand the existing business warehousing, to a location which is immediately adjacent (south) to the existing business.

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Currently within the blue land, there is an existing storage and distribution business which specialises in gardening and horticultural products (conditioned as such) 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 the 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 commenced as it was considered within 17/00875/Disc\_A to have met the definition within Section 56 (Time when development begun) 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 as the building 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. While 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; para. 88 of the NPPF 2024 does encourage the sustainable growth and expansion of all types of business in rural areas through both existing and well-designed new buildings. 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 reduce the visual impact.

Given the previous approval at planning committee (11/01556/F), the extant approval (17/00875/F) to provide additional warehousing, and the fact that it supports the expansion of an existing rural business, 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, in particular paras. 88 and 89, 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**

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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. At the current time the exact size and depth of the lake is unknown and is a reserved matter. 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. 170 of the NPPF. In addition, para. 193 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 and this will be discussed further in the Ecology section below. Therefore, whilst acceptable in principle, it must be ensured that the ecological impacts of the proposal would comply with the principles of the NPPF, in particular Section 15 'Conserving and enhancing the natural environment' and Policy CS12 of the Core Strategy 2011.

### **C: Holiday Lodges**

The proposal includes the provision of holiday lodges (indicative plan shows eight cabins) 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/sluice 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;

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- Proposals for uses that adversely affect SSSI's or European sites will be refused permission.

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 this latter element is 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.

At the February 2023 Planning Committee, Members indicated support for the provision of holiday accommodation in this location given the Norfolk Woods holiday site (east) on the opposite side of the A47 and other holiday accommodation in Pentney. The business plan was revised and whilst unrealistic expectations of holiday unit rental value have been revised to a more realistic level, the estimated 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. Members may wish to consider this when considering the proposal.

The applicant has indicated that it is the intention that the holiday units are kept in the control of the applicant and the management of the site will be conditioned to remain in the control of the owners of the adjoining business (Oakland Gardens) and not sold off or managed individually.

The applicant has submitted a draft deed of covenant to be signed with the Parish Council regarding managing the sluice, but this would not form part of this consent as 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. While design of the holiday units is not known at this stage it is a reserved matter where the design will be further assessed to ensure it is appropriate in this rural setting. 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. Notwithstanding this, it is proposed to rewild the site and a landscaping condition would be applied to limit visual impacts particularly to the south and west.

The applicant states 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 an alternative water management scheme has not been investigated. Consequently, the proposal has been considered in conjunction with Policy DM11, although Members may also want to consider the fact the proposal also provides some water management within the locality.

On balance, the proposal is considered to comply with Policy DM11 and that although full details are not known due to the nature of an outline application, full details would be conditioned via a reserved matters application and further landscaping would address the visual impact of the proposal.

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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 provision of a number of holiday units, would on balance comply with Policy DM11 of the SADMPP 2016.

Overall, this element of the proposal accords with the principles of the NPPF, Policy CS06, CS10, and CS12 of the Core Strategy and Policy DM3 and 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. 84 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. 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 on-site presence is justified and would be required to manage the holiday site.

3b) Existing Dwelling - Information has not been submitted demonstrating whether an alternative dwelling could serve the functional need, however the nature of the proposal would require an onsite presence, whether provided by the same person or in shifts.

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, who would be running the holiday accommodation, and the proposed temporary dwelling is for him rather than the applicant.

5b) Intention - The existing site is agricultural land and there are currently no holiday units, or associated development permitted on site.

Whilst the applicant does own the adjacent existing business, which also forms part of this application to expand the warehousing, this is not sufficient justification for a dwelling in this location. Notwithstanding this the proposal is for a new business and the proposed dwelling

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would be granted temporary consent only, in the first instance for three years, and prior to a more permanent dwelling being considered the applicant would have to demonstrate the holiday business was financially sound and well-established.

On balance the proposed dwelling is considered to meet the requirements of a temporary dwelling in accordance with Policy DM6 of the SADMPP 2016. The proposal would therefore comply with para 83 and 84 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 was submitted before biodiversity net gain became mandatory and the BNG requirement for 10% gain does not therefore apply.

The ecological information has been updated throughout the course of this application to reflect in-depth surveys which took place after submission.

There are third-party objections relating to the potential impact on the adjacent County Wildlife Site as well as some support relating to the creation of the wildlife lake.

### **Protected Sites:**

The application site is located within the countryside and immediately to the west of Pentney Heath which is a County Wildlife Site (CWS) which is designated for its rich mosaic of heath, acid grassland, woodland and scrub habitats. In addition, the application site is within the catchment of the River Nar SSSI and therefore it is the statutory duty of the LPA under the Habitat Regulation (The Conservation of Habitats and Species Regulations 2017) and the Countryside and Wildlife Act 1981 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 Priority Habitats under the Natural Environment and Rural Communities Act 2006 and the Environment Act 2021.

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 (including foul drainage), and
- an impact upon ground water levels which could affect the water table.

During the course of the application a Preliminary Ecological Appraisal (PEA) was submitted as well as a Hydrological Review. Members may recall that the application was deferred in February 2023 to allow for a number of further ecological surveys to take place and an Ecological Impact Assessment (EclA) to be submitted.

The PEA and EclA identified a number of ways that the proposed development could impact upon the SSSI and County Wildlife Site (CWS) immediately to the east and how adequate mitigation measures could be put in place.

A hydrology report was also 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.

The EcIA 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, (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). A pre-commencement condition will be placed on the decision to ensure that a Water Management Plan, involving the third parties is submitted before development begins. The applicant has confirmed that the ecologist has been in talks with the owner of the CWS to provide a water management plan.

There are no objections to the proposal from Natural England following the submission of the additional information as it demonstrates that the proposal would not adversely affect the River Nar SSSI.

The application site falls within a Zone of Influence of the following European designated sites scoped into the Norfolk GIRAMS;

- Breckland Special Protection Area (SPA) and Special Area of Conservation (SAC)
- North Norfolk Coast SPA, SAC and Ramsar
- The Wash and North Norfolk Coast SAC
- The Wash SPA and Ramsar
- Roydon Common and Dersingham Bog SAC
- Roydon Common Ramsar
- Dersingham Bog Ramsar
- Norfolk Valley Fens SAC

It is anticipated that certain types of development in this area are likely to have a significant effect on the sensitive interest features of these European designated sites, through increased recreational pressure. The GIRAMS has been put in place to ensure this additional recreational pressure does not lead to an adverse effect on European designated sites in Norfolk. An appropriate assessment has been carried out by the LPA and it has been determined that mitigation could be adequately provided with regard to these protected sites by payment of the GIRAMS fee.

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The current application is for outline consent only, at reserved matters stage, when full details of the overnight accommodation are known, the GIRAMS fee will be required prior to approval of the reserved matters.

#### Protected Species:

The submission of the EclA has enabled the LPA to assess the impact of the proposal upon protected species with further surveys identifying:

- Bat activity transect - nine species recorded; site of local regional importance;
- Breeding/wintering birds - The fields (grassland) are considered to be of Site value for breeding birds whilst the boundary habitats including the CWS are considered to be of Local value;
- Reptiles - slow-worm, grass snake & common lizard confirmed present, so site of county value; and
- Great Crested Newts - presence confirmed in five waterbodies and of local importance.

The Norfolk Wildlife Trust (NWT) has withdrawn its objection provided the mitigation provided within the EclA is conditioned. This would also include signage and boundary fencing to the CWS which would protect the CWS and stop visitors accessing the site, while allowing for wildlife to permeate the fencing. A construction management plan to ensure that surface water and ground water are not polluted during construction, as well as details of the surface and foul water drainage to ensure that this is adequately dealt with.

It is noted that the NWT has also highlighted the importance of a Water Management Plan in conjunction with the owner of the CWS to ensure that water levels are not adversely affected within the CWS. It has been confirmed by the ecologist (Philip Parker & Associates) that the botanical survey (June) stated within the PEA was not required as it was in relation to land to the north of the existing business, however following amended plans being received this area of land is no longer included within the application site and the survey is not required.

#### Licensing Requirements:

The EclA states that following the presence of Greater Crested Newts (GCN) being identified in surrounding waterbodies within 250m of the proposed development, there is a requirement to cover the site under a suitable derogation licence from Natural England.

It has been determined that this could be carried out within the District Level Licencing scheme (DLL). This scheme enables developers to apply for an Impact and Conservation Payment Certificate (IACPC) where Natural England measure the impact of the proposed development on GCN and assess the cost of compensating for the impact through new or improved pond provision for GCN. This licensing provides a positive contribution towards the conservation status of the protected species and the area where the application site is located has a favourable conservation status. The application site is within a 'green risk zone' and the licensing guidance states that in green zones all types of development are suitable for the scheme. To join the scheme, developers need to apply for the IACPC which will be countersigned by Natural England.

The Senior Ecologist objects to the proposal because the applicant has not yet submitted the IACPC which has been countersigned by Natural England.

While gaining this certificate prior to determination of the application would be ideal, it is understandable that developers do not always apply for the licence prior to gaining consent due to the potential costs.

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Government Guidance does state that where an application is assessed without an IACPC the LPA will need to check the risk zone of the application (green in this case) and then consider the tests of derogation to ascertain whether Natural England would be likely to grant a license for the proposed works.

1 There is an overriding public interest

The proposal is considered to comply with this test. The application complies with policies of the development plan, providing economic benefits both to the existing business and proposed tourism business in line with local plan policies.

2 There is no satisfactory alternative

The proposal is positioned where there will be minimal impacts on protected species with mitigation in place to minimise impact.

3 The resulting permitted actions will not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status within their natural range.

The proposal is unlikely to be detrimental to the maintenance of the GCN population, with works being appropriately managed and mitigation in place. The site is within a green risk zone for the district level licensing scheme, and it is the LPA's opinion that a district level licence is likely to be granted on the above basis in accordance with the Habitat Regulations, Policy CS12 of the Core Strategy and para. 193 of the NPPF. While the LPA ecologist objects as the certificate has not been submitted, on balance the LPA take the view that this can be applied for prior to commencement as it is likely that Natural England would grant the IACPC.

Therefore, provided the ecological mitigation within the EclA is conditioned, a water management plan is submitted (in conjunction with the owner/manager of the CWS) to ensure that the proposal not only considers 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. The proposal complies with Section 15 of the NPPF and Policy CS12 of the Core Strategy 2011.

**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, lodges etc., 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.

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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 did not respond to the reconsultation following the relocation of the proposed new warehousing to the south of the existing business and which would be further away from the nearest residential neighbour than the location in their original response. The proposal in the revised location is not considered to cause any adverse impact upon these neighbours to the north. The proposed warehousing is located where the now lapsed warehousing was proposed and could be conditioned in a similar manner. It is noted that the current business does not have a condition regarding hours of operation, and it is considered onerous to place this condition on the decision as the proposed warehouse is screened to the north by the existing business and to the south by the proposal holiday site which is within the same ownership.

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 and there are third party objections to this. Notwithstanding this a transport assessment was requested by National Highways

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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 115 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 plan/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 170 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.

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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 Construction Ecological Management Plan (CEMP).

In addition to ensure that there is no pollution of the water environment due to foul water disposal, these details can be dealt with via 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. This is more a matter for reserved matters when the detail of site layout and the position and depth of the proposed lake is known.

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 involves a number of elements, the full detail of which is unknown at the present time as the application is for outline planning permission with all matters reserved. However the applicant has established it shall be for the expansion of an existing business with the provision of a new warehouse unit, a wildlife and tourism lake with holiday lodges and associated new (temporary) dwelling, nature reserve with associated accesses and facilities, along with installation of a sluice gate.

Notwithstanding this, when considering the planning balance, the proposal would allow for economic benefits, such as the expansion of the existing business on site (supplying gardening equipment) and would involve the provision of a wildlife lake and tourist facility.

The 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 has been addressed by the submission of an Ecological Impact Assessment and related conditions.

Members are asked to weigh-up the benefits of the proposed development, versus the large scale of the proposed development, in a location which is not well served by services and facilities. The proposal is finely balanced, however it is considered to be in accordance principles of the NPPF, Policies CS01, CS02, CS06, CS08, CS10 and CS12 of the Core Strategy 2011 and Policies DM2, DM3, DM6, DM11, DM12, DM15 and DM17 of the SADMPP 2016 and therefore it is recommended that the application be approved.

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## RECOMMENDATION:

**APPROVE** subject to the imposition of the following condition(s):

- 1 Condition: Approval of the details of the means of access, layout, scale, appearance and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority before any development is commenced.
- 1 Reason: To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: Plans and particulars of the reserved matters referred to in Condition 1 above shall be submitted to the Local Planning Authority in writing and shall be carried out as approved.
- 2 Reason: To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 3 Condition: Application for the approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3 Reason: To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 4 Condition: The development hereby permitted shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the latest such matter to be approved.
- 4 Reason: To comply with Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 5 Condition: Prior to the commencement of groundworks, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
  - (i) a survey of the extent, scale and nature of contamination;
  - (ii) an assessment of the potential risks to:
    - human health,
    - property (existing or proposed) including buildings, crops, livestock, pets,
    - woodland and service lines and pipes,
    - adjoining land,
    - groundwaters and surface waters,
    - ecological systems,
    - archaeological sites and ancient monuments;
  - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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This must be conducted in accordance with the Environment Agency's Land Contamination Risk Management (LCRM).

- 5 Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. This needs to be a pre-commencement condition given the need to ensure that contamination is fully dealt with at the outset of development.
- 6 Condition: Prior to the commencement of groundworks, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 6 Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors. This needs to be a pre-commencement condition given the need to ensure that contamination is fully dealt with at the outset of development.
- 7 Condition: The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of groundworks, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

- 7 Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 8 Condition: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 5, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 6, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 7.

- 8 Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.
- 9 Condition: The development shall be carried out in accordance with the Mineral Resource Investigation submitted in support of planning application 21/02392/OM. During the construction phase, the developer shall keep a record of the amounts of material obtained from on-site resources which are used onsite and the amount of material returned to an aggregate processing plant through a Materials Management Plan-Minerals. The developer shall provide an annual return of these amounts to the Local Planning Authority and the Mineral Planning Authority, or upon request of either the Local Planning Authority or Mineral Planning Authority.
- 9 Reason: To ensure that needless sterilisation of safeguarded mineral resources does not take place in accordance with the National Planning Policy Framework and Policy CS16 of the Norfolk Core Strategy and Minerals and Waste Development Management Policies DPD 2010-2026.
- 10 Condition: No development shall commence until full details of the foul and surface water drainage arrangements (including sustainable drainage systems) for the site have been submitted to and approved in writing by the Local Planning Authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is brought into use.
- 10 Reason: To ensure that there is a satisfactory means of drainage in accordance with the NPPF.

This needs to be a pre-commencement condition as drainage is a fundamental issue that needs to be planned for and agreed at the start of the development.

- 11 Condition: The details submitted in accordance with Condition 1 shall include a full tree survey. This tree survey shall include any tree located within the site and within a 15m distance of the application site and shall be accompanied by an Arboricultural Implication Assessment and Method Statement carried out by a suitably qualified arboriculturist and in accordance with the current BS:5837 'Trees in relation to construction – Recommendations'.
- 11 Reason: To ensure that the existing trees are properly surveyed and full consideration is made of the need to retain trees in the development of the site in accordance with the NPPF. This needs to be submitted at reserved matters stage to ensure that the development can be accommodated once full details of layout are known.
- 12 Condition: To ensure that the development is properly landscaped in the interests of the visual amenities of the locality in accordance with the NPPF. This needs to be considered at reserved matters stage to ensure that the spoil from the proposed lake is reused on site, which may impact the detail relating to layout.

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- 12 Reason: The details submitted in accordance with Condition 1 shall include full details of the reuse of on-site excavated soil within the landscaping of the site and in accordance with the 'Habitat Creation' section of Section 6.0 (Mitigation/Enhancement Strategy) of the Ecological Impact Assessment by Philip Parker Associates Ltd (Ref: P2022-21 R3FINAL) dated 15th March 2024.
- 13 Condition: The development hereby approved shall be carried out in full accordance with Section 6 'Mitigation/Enhancement Strategy' of the Ecological Impact Assessment (Ref: P2022-21 R3FINAL) prepared by Philip Parker Associates Ltd and dated 15/03/2024:
- Habitat Creation
  - Water Resource Control
  - Habitat Management
  - Bats
  - Breeding Birds
  - Reptiles/Amphibians/Small Mammals
  - Signage/Engagement
  - Monitoring
  - Advisory Note
- 13 Reason: In the interests of protected species and ecology and in accordance with Section 15 of the NPPF and Policy CS12 of the Core Strategy 2011.
- 14 Condition: No development shall commence on site until a Water Management Plan (WMP) has been submitted to the LPA and agreed in writing. This WMP shall have been written in collaboration with the owner/manager of Pentney Heath (CWS) to address the management of the sluice gate and water levels within the adjacent County Wildlife Site (CWS). This Plan shall be agreed and signed by all parties prior to being submitted to the LPA. The Water Management Plan shall then be implemented as agreed in perpetuity.
- 14 Reason: To ensure the water levels within the County Wildlife Site are not adversely affected by the water management proposals on site, and do not impact upon the existing habitats on the adjacent CWS in accordance with Policy CS12 of the Core Strategy 2011 and Section 15 of the NPPF.
- 15 Condition: Prior to the installation of any external lighting, a detailed outdoor lighting scheme that is compliant with the 'Bats' mitigation of Section 6.0 'Mitigation/Enhancement Strategy' of the Ecological Impact Assessment, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the type of lights, the orientation/angle of the luminaries, the spacing and height of the lights, the extent/levels of illumination over the site and on adjacent land and the measures to contain light within the curtilage of the site. The scheme shall be implemented in accordance with approved scheme and thereafter maintained and retained as agreed.
- 15 Reason: In the interests of minimising light pollution and to safeguard the amenities of the locality in accordance with the principles of the NPPF and Policy CS12 of the Core Strategy 2011.
- 16 Condition: Prior to the first use of the holiday lodges hereby approved, the boundary fence to the County Wildlife Site (Pentney Heath) and signage as detailed within the

'Signage/Engagement' part of Section 6.0 'Mitigation/Enhancement Strategy' of the Ecological Impact Assessment shall be erected and maintained in perpetuity.

- 16 Reason: To ensure there is minimal disturbance to the County Wildlife Site in accordance with Section 15 of the NPPF and Policy CS12 of the Core Strategy 2011.
- 17 Condition: Prior to the commencement of development, the LPA must be provided with either:
- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
  - b) a statement in writing from the Natural England to the effect that it does not consider that the specified activity/development will require a licence.
- 17 Reason: To conserve protected species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended), s17 Crime & Disorder Act 1998, Policy CS12 of the Core Strategy 2011 and Section 15 of the NPPF.
- 18 Condition: No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following as a minimum:
- a) Risk assessment of potentially damaging construction activities such as noise, light and creation of dust.
  - b) Details outlining mitigation measure that will be in place to avoid pollution events such as fuel spills, oil leaks and discharges and how these will be controlled should they occur accidentally.
  - c) Identification of "biodiversity protection zones" accompanied by a figure identifying their location and extent.
  - d) The location and timing of sensitive works to avoid harm to biodiversity features. This will include construction timed to be outside of breeding bird season (1st March and 31st August inclusive) unless a competent ecologist has undertaken preconstruction checks for nesting birds.
  - e) A precautionary working method statement to avoid the risk of impacts to reptiles which will include the sensitive removal of vegetation and any brash piles
  - f) Details of security/construction lighting including the design, location, orientation and level of illuminance which must specify the avoidance of illuminating ecological features such as hedges, garden boundaries and mature tree to maintain dark corridors
  - g) The times during construction when specialist ecologists(Ecological Clerk of Works) need to be present on site to oversee works and what the role and responsibilities of that person will be.
  - h) Responsible persons and lines of communication.  
The development shall be constructed in full accordance with the details agreed.
- 18 Reason: In order to safeguard the ecological interests of the site in accordance with Policy CS12 of the Kings Lynn and West Norfolk Core Strategy 2011 and Section 15 of the NPPF. In order to comply with the Habitats Regulations (2017) and avoid likely significant impacts to River Nar SSSI and Pentney Heath CWS. The details are required prior to commencement to ensure the ecological interests of the site are not prejudiced by the construction process.

- 19 Condition: The warehouse hereby approved shall be used for the distribution of garden equipment only and for no other purpose, including any use within Classes E or B8 of the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any statutory Instrument revoking and reenacting that Order with or without modification and no part of the premises shall be used for the display or sale of garden equipment directly to visiting members of the public.
- 19 Reason: In the interests of neighbour amenity and to ensure that the impacts on highway safety and the free flow of traffic have been assessed in line with the principles of the NPPF, Policy CS11 of the Core Strategy and Policy DM12 of the SADMP 2016.
- 20 Condition: Notwithstanding the provisions of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no change of use shall be allowed relating to the warehouse hereby approved, without the granting of specific planning permission.
- 20 Reason: In order that the Local Planning Authority may retain control of development which might be detrimental to the amenities of the locality if otherwise allowed by the mentioned Order. In accordance with the provisions of the NPPF and Policy DM2 of the Core Strategy 2011.
- 21 Condition: Vehicular access to and egress from the adjoining highway shall be limited to the A47 access only as shown on Drawing No. PL21/2D Any other access or egress from the development with Pentney Lane shall be permanently closed in accordance with a detailed scheme to be agreed with the Local Planning Authority.
- 21 Reason: In the interests of highway safety in accordance with para. 115 of the NPPF and Policy CS11 of the Core Strategy 2011.
- 22 Condition: The holiday lodges hereby permitted shall only be used as holiday accommodation and shall not be occupied as any persons sole or main place residence at any time.
- 22 Reason: For the avoidance of doubt and to ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation which would be inappropriate in this location and contrary to the provisions of the NPPF, Policies CS01 and CS06 of the Core Strategy 2011 and DM11 of the SADMP 2016.
- 23 Condition: The holiday lodges hereby permitted shall be for short term holiday accommodation and/or commercial leisure lets only and for no other purpose (including any other purpose defined in Use Class C3) and each lodge shall only be occupied for short stays not exceeding 28 days for each letting or period of occupation.
- 23 Reason: For the avoidance of doubt and to ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation which would be inappropriate in this location and contrary to the provisions of the NPPF, Policies CS01 and CS06 of the Core Strategy 2011 and DM2 and DM11 of the SADMP 2016.
- 24 Condition: The owners / operators of the holiday cabins shall maintain an up-to-date register of lettings / occupation with details of occupants arrival and departure dates,

names and addresses and this information shall be made available at all reasonable times to the local planning authority.

- 24 Reason: For the avoidance of doubt and to ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation which would be inappropriate in this location and contrary to the provisions of the NPPF and Policies CS01 and CS06 of the Core Strategy 2011 and DM2 and DM11 of the SADMP 2016.
- 25 Condition: All the holiday lodges hereby approved shall be owned/leased and managed by the occupants/owners of the business to the north known as Oakland Gardens, Main Road, Pentney and at no time shall they be sold off as separate accommodation or managed individually.
- 25 Reason: For the avoidance of doubt and to ensure that the approved holiday accommodation is not sold off piecemeal or used for unauthorised permanent residential occupation which would be inappropriate in this location and contrary to the provisions of the NPPF and Policies CS01 and CS06 of the Core Strategy 2011 and DM2 and DM11 of the SADMP 2016.
- 26 Condition: The residential accommodation shown on drawing no. PL21/2D as 'Temporary Wardens accommodation mobile facility for 24h security purposes' shall be occupied in conjunction with the holiday lodge accommodation only, and shall not be occupied until the holiday lodge business has commenced.
- 26 Reason: The site lies in an area where the Local Planning Authority would not normally grant permission for new dwellings. This permission is granted in recognition of the special need for the dwelling in connection with a rural enterprise in accordance with the NPPF.
- 27 Condition: The residential accommodation shown on drawing no. PL21/2D as 'Temporary Wardens accommodation mobile facility for 24h security purposes' is hereby approved for three years from the date of occupation of the holiday lodges as set out within Condition 26.

Once this date has passed, the permission for this accommodation shall expire and unless on or before that date application is made for an extension of the period of permission and such application is approved:

- (a) the building shall be removed from the application site,
- (b) the use of the land shall be discontinued, and
- (c) there shall be carried out any work necessary to reinstate the application site to its condition prior to the implementation of this temporary permission.

- 27 Reason: The site lies in an area where the Local Planning Authority would not normally grant permission for new dwellings. This temporary permission is granted in recognition of the special need for the dwelling in connection with a new rural enterprise in accordance with the NPPF and Policy DM6 of the SADMP 2016.