

Planning Committee

Agenda

Date

Wednesday 19 December 2018

Members of the Planning Committee

Miss S Lawn
(Chairman)

Mr D B Willmott
(Vice Chairman)

Mr A D Adams
Mr G Everett
Mr R F Grady
Mrs L H Hemsall
Mr R J Knowles

Mr K G Leggett MBE
Mr A M Mallett
Mrs B H Rix
Mr J M Ward

Time

9.30am

Place

Council Chamber
Thorpe Lodge
1 Yarmouth Road
Thorpe St Andrew
Norwich

Substitutes

Conservative

Mrs C H Bannock
Mr R R Foulger
Mrs T M Mancini-Boyle*
Mr I N Moncur
Mr G K Nurden
Mr M D Snowling MBE
Mrs K A Vincent
Mr S A Vincent
Mr D C Ward

Liberal Democrat

Mr S Riley

Contact

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*not met training requirement so ineligible to serve

If any Member wishes to clarify details relating to any matter on the agenda they are requested to contact the relevant Area Planning Manager, Head of Planning or the Head of Democratic Services & Monitoring Officer prior to the meeting.



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**The Chairman will ask if anyone wishes to
film / record this meeting**

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| 4 | Matters arising therefrom (if any) | |
| 5 | <u>Planning Application 20181177 – Details to be approved under Local Development Order Condition 2.20 – Church Lane, Honingham</u> | 25 – 71 |
| | Further to the meeting held on 3 October 2018, to consider an addendum report by the Head of Planning | |
| 6 | <u>Planning Application 20181336 – Infiltration lagoon to serve Food Enterprise Park on Land west of Blind Lane, Honingham</u> | 72 – 119 |

Further to the meeting held on 3 October 2018, to consider an addendum report by the Head of Planning

Please Note: In the event that the Committee has not completed its business by 1.00pm, at the discretion of the Chairman the meeting will adjourn for 30 minutes.

P C Kirby
Chief Executive

Copies of the applications and any supporting documents, third party representations and views of consultees are available for inspection in the planning control section.

Minutes of a meeting of the **Planning Committee** held at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich on **Wednesday 28 November 2018** at **9.30am** when there were present:

Miss S Lawn – Chairman

Mr A D Adams
Mr G Everett
Mrs L H Hemsall

Mr R J Knowles
Mr K G Leggett
Mrs B H Rix

Mr J M Ward
Mr D B Willmott

The following Members attended the meeting and spoke with the Chairman's concurrence on the items shown:

Mrs Leggett	Minute no: 56 (Beeston Park, land north of Sprowston & Old Catton)
Mr Roper	Minute no: 54 (land adjacent to St Mary's Care Home, North Walsham Road, Spixworth)
Mrs Vincent	Minute no: 56 (Beeston Park, land north of Sprowston & Old Catton)

Also in attendance were the Development Manager, Area Planning Manager (NH) (for Minute nos: 50-54); Planning Projects and Landscape Manager (for Minute no: 56); the Senior Planning Officer (CR) (for Minute no: 55) and the Senior Committee Officer.

50 ITEM OF URGENT BUSINESS

The Chairman authorised the following as an item of urgent business:

Minute no: 106 – Application Number 20172094 – 116 The Street, Brundall

The Development Manager reported that the appeal for the change of use from an existing optician shop to a pizza takeaway and external flue to the rear of 116 The Street in Brundall had been allowed. Furthermore, the Inspector had awarded costs to the appellant. In making his decision, the Inspector stated that the Council had acted unreasonably in that it had gone against the advice of its professional officers without good reason and failed to substantiate the objection on the grounds of harm to the living conditions of nearby residents.

The Development Manager reminded Members that although they were not duty bound to follow officer recommendations they needed to demonstrate clearly why on planning grounds a planning proposal was unacceptable and

provide clear evidence to substantiate this reasoning. With this particular application, the Inspector stated that little evidence had been put forward by Members to support the reason for refusal. Therefore, in accordance with the Planning Practice Guidance, a full award of costs had been justified.

51 APOLOGIES FOR ABSENCE

Apologies for absence were received from Mr Grady and Mr Mallett.

52 MINUTES

The Minutes of the meeting held on 24 October 2018 were confirmed as a correct record and signed by the Chairman.

Minute no: 46 – Application No: 20180236 – Drayton Old Lodge, 146 Drayton High Road, Drayton

The Development Manager reported that the Highway Authority had not objected to the revised plan for retaining the width of the road junction and therefore, the application would be approved under delegated powers, in accordance with the Committee's decision.

53 APPLICATION NUMBER 20181359 – LAND NORTH OF NORWICH ROAD, GT PLUMSTEAD

The Committee considered an application for the erection of a self-build stockman's dwelling on land to the North of Norwich Road in Gt Plumstead. The dwelling would be used in connection with the proposed new pig farming operation on site.

The application was reported to committee (1) at the request of Mr Vincent for the reasons stated in paragraph 3.3 of the report and (2) as it was contrary to policy.

The Committee received the verbal views of Mr Murrell, the applicant, at the meeting.

The site was located outside of the settlement limit where development proposals would not normally be considered acceptable unless they complied with a specific allocation and / or policy of the development plan. Paragraph 79 of the NPPF and Policy H1 of the Development Management DPD (2015) were both relevant policy considerations, relating to the need for rural workers to live near their place of work. The site already had permission for three pig rearing buildings, a straw storage barn, grain store and a workshop (yet to be

constructed) on a 26 hectare site and therefore, the principle of agricultural development and a pig farm operation at the site had already been established.

The applicant had submitted supporting evidence in connection with the essential agricultural need for a dwelling on the site which demonstrated why 24 hour care was essential particularly when the piglets arrived at 3 weeks old, to ensure survival. Furthermore, the various welfare codes and regulations, coupled with the RSPCA and BQP standards, necessitated constant close supervision by a stockman and, therefore, a dwelling on site was essential. The applicant had looked for suitable housing on the market within sight and sound of the proposed new farm buildings without success.

Having considered all of the evidence put forward by the applicant, it was agreed that the applicant had demonstrated that there was an essential need for a rural worker to live permanently on the site within sight and sound of the pig farming buildings. The Committee noted that the site would be used to expand the applicant's existing pig farming operations at two other sites which had been established for a number of years. It was considered that the creation of a further pig farming operation and the capital expenditure required showed commitment to the business.

It was noted that the provision of a self-build plot weighed in favour of the proposal but this alone would not justify a dwelling in this rural location outside of any settlement limit.

In terms of the effect of the proposal on the character and appearance of the area, it was noted that the dwelling would be visible within the surrounding landscape but it was considered that the proposed landscaping scheme, coupled with the existing mature boundary hedgerows and trees, would help to break up the mass of the building forms of both the dwelling and approved agricultural buildings and reduce any potential impact. Furthermore, the dwelling would be sited over 400m from Norwich Road and other residential properties and this would mean the proposal would not impact upon neighbour amenity in terms of loss of light, privacy, overlooking or by being overbearing given the separation distances.

The Highways Authority was not objecting to the application, subject to the imposition of conditions and an informative.

In reaching its decision, the Committee acknowledged that the comments of both the parish council and Ward Member very much related to the pig rearing buildings which had recently been granted planning permission.

In conclusion, it was considered that the proposal adequately demonstrated that there was an essential need for a rural worker to live permanently at their place of work in the countryside and therefore, on balance, the proposal was

considered to comply with Policy H1 of the Development Management DPD and the NPPF. Accordingly, it was

RESOLVED:

to approve application subject to the following conditions:

- (1) The development to which this permission relates must be begun not later than THREE years beginning with the date on which this permission is granted.
- (2) The development hereby permitted shall not be carried out otherwise than in accordance with the plans and documents listed below.
- (3) The development hereby permitted shall be constructed using the materials specified within Section 9 of the planning application form and approved plans.
- (4) The occupation of the dwelling shall be limited to a person solely or mainly employed or last employed in the business occupying the plot edged red on the submitted Site Location Plan, or widow or widower of such a person or any resident dependants.
- (5) The dwelling hereby permitted shall not be occupied until the pig farming buildings that benefit from consent at the site (Local Planning Authority reference numbers 20181104, 20181105, 20181261, and 20181361) are all fully constructed and the pig farm is fully operational on the site.
- (6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), or any other Order amending, revoking or re-enacting that Order with or without modification, no development permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 of that Order shall be carried out without first receiving planning permission from the Local Planning Authority.
- (7) The landscaping plan produced by A.T. Coombes Associates Ltd, received on 11 October 2018 shall be carried out within the first planting season following the commencement of work on site or in accordance with a programme agreed in writing with the Local Planning Authority.

The scheme as approved shall be carried out not later than the next available planting season following the commencement of development or such further period as the Local Planning Authority may allow in writing. If within a period of FIVE years from the date of

planting, any tree or plant or any tree or plant planted in replacement for it, is removed, uprooted or is destroyed or dies, [or becomes in the opinion of the Local Planning Authority, seriously damaged or defective] another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

- (8) Prior to the first occupation / use of the development hereby permitted the vehicular access / crossing over the verge shall be constructed in accordance with a detailed scheme to be agreed in writing with the Local Planning Authority in accordance with the Norfolk County Council Field Access construction specification and thereafter retained at the position shown on the approved plan. Arrangement shall be made for surface water drainage to be intercepted and disposal of separately so that it does not discharge from or onto the highway.
- (9) Vehicular access to and egress from the adjoining highway shall be limited to the access shown on the approved drawing only. Any other access or egress shall be permanently closed, and the highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority concurrently with the bringing into use of the new access.
- (10) Any access gates / bollard / chain / other means of obstruction shall be hung to open inwards, set back, and thereafter retained a minimum distance of 8m from the near channel edge of the adjacent carriageway.
- (11) Prior to the first occupation / use of the development hereby permitted visibility splays shall be provided in full accordance with the details indicated on the approved plan. The splay(s) shall thereafter be maintained at all times free from any obstruction exceeding 0.6m above the level of the adjacent highway carriageway.

Reasons:

- (1) The time limit is imposed in compliance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- (2) For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans and documents
- (3) To ensure the satisfactory appearance of the development, in accordance with Policy GC4 of the Development Management DPD 2015.

- (4) The site of the proposed development lies outside an area in which the Local Planning Authority normally permits residential development and permission has only been granted because of the agricultural need for a dwelling on this site in accordance with Policy H1 of the Development Management DPD 2015.
- (5) To ensure that the functional agricultural need for the dwelling remains associated with the proposed pig farm operation at the application site in accordance with Policy H1 of the Development Management DPD 2015.
- (6) To ensure development appropriate for the area in accordance with Policy GC4 of the Development Management DPD 2015.
- (7) To ensure the maintenance of screening to the site and to protect the appearance and character of the area in accordance with Policies GC4, EN2 and EN3 of the Development Management DPD 2015.
- (8) To ensure construction of a satisfactory access and to avoid carriage of extraneous material or surface water from or onto the highway in the interests of highway safety in accordance with Policy TS3 of the Development Management DPD 2015.
- (9) In the interests of highway safety in accordance with Policy TS3 of the Development Management DPD 2015.
- (10) In the interests of highway safety enabling vehicles to safely draw off the highway before the gates / obstruction is opened in accordance with Policy TS3 of the Development Management DPD 2015.
- (11) In the interests of highway safety in accordance with the principles of the National Planning Policy Framework and Policy TS3 of the Development Management DPD 2015.

Informatives:

- (1) The Local Planning Authority has taken a positive and proactive approach to reach this decision in accordance with the requirements of paragraphs 186-187 of the National Planning Policy Framework.
- (2) If this development involves any works of a building or engineering nature, please note that before any such works are commenced it is the applicants' responsibility to ensure that, in addition to planning permission, any necessary consent under the Building Regulations is also obtained. Advice in respect of Buildings Regulations can be obtained from CNC Building Control Consultancy who provide the

Building Control service to Broadland District Council. Their contact details are; telephone 0808 168 5041 or enquiries@cncbuildingcontrol.gov.uk and the website www.cncbuildingcontrol.gov.uk

- (3) The applicants need to be aware that the Community Infrastructure Levy (CIL) will be applied to development on this site. Further information about CIL can be found at www.broadland.gov.uk/housing_and_planning/4734.asp
- (4) The applicants' attention is drawn to National Grid's tree planting guide which can be found on the following website: <https://www.nationalgridgas.com/land-and-assets/working-near-our-assets>
- (5) This development involves works within the Public Highway that can only be carried out by Norfolk County Council as Highway Authority unless otherwise agreed in writing.

It is an offence to carry out any works within the Public Highway, which includes a Public Right of Way, without the permission of the Highway Authority. Please note that it is the applicants' responsibility to ensure that, in addition to planning permission, any necessary consents or approvals under the Highways Act 1980 and the New Roads and Street Works Act 1991 are also obtained from the County Council. Advice on this matter can be obtained from the County Council's Highway Development Control Group. Please contact Stephen Coleman on 01603 430596.

If required, street furniture will need to be repositioned at the applicants' own expense.

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service to reach agreement on any necessary alterations, which have to be carried out at the expense of the developer.

54 APPLICATION NUMBER 20171221 – LAND ADJACENT TO ST MARY'S CARE HOME, NORTH WALSHAM ROAD, SPIXWORTH

The Committee considered an application for five supported retirement bungalows on land adjacent to St Mary's Care Home on North Walsham Road in Spixworth. The site already benefitted from planning permission for the erection of 18 supported retirement bungalows and the creation of 20 allotments (pp 20150991). Works had already commenced on site with plots 1-6 and 19-23 already being constructed and plots 19-23 being the subject of

this application. The Section 106 Agreement attached to the original planning permission required the provision of pedestrian links to village facilities. These comprised two footpaths, one extending from the site access to the existing bus stop on the North Walsham Road (already constructed) and a second which was proposed across parish council land adjacent to the village hall linking with Crostwick Lane. However, during the negotiations between the parish council and the developer, it had transpired that part of the required land was in fact in the ownership of a charity and this had statutory consequences in terms of the consideration payable for the granting of rights over the footpath link land. The total sum had ultimately not proved acceptable to the applicant despite negotiation over a reduced sum and that was why they were now looking at alternative ways of providing the required footpath link. The alternative being proposed as part of this current application was a new footpath through to Rosa Close.

In presenting the application, the Area Planning Manager referred to an additional condition which the officers were proposing relating to the provision of an access gate on the northern boundary and the footway to Rosa Close to be completed prior to the first occupation of the development. In addition, condition 6 was to be amended by adding "prior to first occupation of the development" after "... with the approved plans".

The application was reported to committee as it was contrary to the provisions of the development plan.

The Committee noted the following: a revised site location plan; the receipt of an amended plan which included a minor alteration to the pathway at plot 19; reference to an access gate between the development and its boundary with the recreation ground; further measurements on the width of the access link to Rosa Close (varied between 1.8m and 1.35m); the receipt of seven additional letters of representation, together with the officer response; clarification on the existing S106 Agreement obligations; an update on the Allotment Lease and additional recommendations relating to the proposed new Section 106 following the fact that Rosa Close was now being offered as an alternative private access route to the development, all as reported in the Supplementary Schedule.

In addition, the Committee received the verbal views of Anne Barnes of Spixworth Parish Council, objecting to the application and Nigel Cooper of David Futter Associates (the agent) at the meeting. Mr Roper, one of the Ward Members also spoke against the application, in relation to the revised access route via Rosa Close.

Members acknowledged that the NPPF stated that there was a presumption in favour of sustainable development unless any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole.

There was currently a 4.61 years' supply of housing land in the NPA as published in the 2017 Greater Norwich Area Housing Land Supply Assessment as part of the Annual Monitoring Report for the JCS. Consequently, relevant policies for the supply of housing in the NPA could not be considered up to date and applications for housing should continue to be determined within the context of paragraph 11 of the NPPF.

However, the Committee noted that, in June 2017, an updated Strategic Housing Market Assessment (SHMA), published for Central Norfolk. This identified that, for the Norwich Policy Area, there was an 8.08 year housing land supply. The SHMA was a material consideration in the determination of planning applications – now that this latest evidence showed that there was an abundant housing land supply this should be given weight in the decision making processes.

Accordingly, the Committee assessed the proposals against the three dimensions of sustainable development against the development plan policies.

Economic Role

It was noted that the development would result in some short-term economic benefits as part of any construction work and in the longer term by local spending from the future occupants of the additional dwellings. It was therefore considered that the scheme would bring forward a small level of economic benefit.

Social Role

Although the site was outside of the settlement limit for Spixworth, it was adjacent to allotments and a recreation ground and less than 0.5 mile from a variety of local shops and the doctors' surgery via the new proposed footpaths. The site was also served by regular bus services. Accordingly, it was considered to be a sustainable location in transport terms with good accessibility to services and facilities by foot or public transport.

It was noted that, given this development was in addition to the existing development for 18 dwellings, the commuted sum for the affordable housing contribution had been increased from £175,000 to £245,000 with the additional amount being secured by a new Section 106 Agreement.

Whilst noting the requirements of Policy RL1 of the DM DPD relating to recreation provision, the Committee considered that children's play would not be appropriate for this development, given the nature of the residents associated with supported retirement homes. In terms of Policy EN3 relating to informal space and allotments, the Committee noted that the approved development included significant over-provision of allotments and there was

substantial new formal recreation provision elsewhere in the village. Accordingly, this was considered to compensate for the lack of formal recreation provision in this instance.

Finally, the additional contribution to the supply of older persons' homes weighed in favour of the proposals, in terms of the social benefit.

Environmental Role

It was considered that the overall impact on the character of the area from these additional dwellings would be minimal and there would be no material harm.

In terms of the highways implications, Members noted that the access currently existed and the Highway Authority had no objection to the development, subject to conditions with respect to the provision of parking.

It was noted that the five additional bungalows would be of a similar design and materials to the existing approved dwellings and a condition was being recommended for the removal permitted development rights for extensions, roof alterations, ancillary buildings or fences, gates, walls or other means of enclosure and this was considered appropriate in the interests of the satisfactory appearance of the development.

In terms of amenity, it was considered that the proposed development would have no significant impact with respect to existing levels of residential amenity currently enjoyed by neighbouring properties, as the dwellings would be of single storey construction and given the separation distances involved.

The Committee considered that the new footpath was a satisfactory alternative to that proposed in the original S106 Agreement which had proved problematic to secure. However, it was considered that a condition should be imposed requiring the provision of a gate on the northern boundary and footway to Rosa Close to prevent access by mopeds etc.

Members noted that the Section 106 Agreement from 2016 would remain operative and enforceable thereby safeguarding the payment of the affordable housing contribution and the provision of the allotments. Furthermore, Members acknowledged that the Council would not seek to enforce the provisions within the original S106 relating to the provision of the former footpath link across the Parish Council land and additionally, paragraphs 1.1-1.3 of Schedule 1 to the Agreement relating to the laying out and provision of allotment land which had already been agreed as this would allow for the allotments to be available for lease by the Parish Council if it wished to pursue that option.

In terms of all other matters raised, Members concurred with the officer's appraisal addressing these in the report including the imposition of appropriate conditions.

In conclusion it was considered that the proposals represented an acceptable form of development in a sustainable location and would not result in significant harm to the character and appearance of the area, residential amenity or highway safety and would result in a number of significant benefits. Accordingly, it was

RESOLVED:

to delegate authority to the Head of Planning to approve application number 20171221 subject to the satisfactory completion of a Section 106 Agreement relating to the following Heads of Terms and subject to the following conditions and no new material issues arising from consultation on revised plans:

Heads of Terms:

- (1) Affordable Housing (off site commuted sum £70,000 index linked).
- (2) Occupancy restriction that the units are not to be occupied by persons under 55 years of age. Such restriction shall not prevent occupation by a younger partner or prevent occupation by the younger partner if the older partner dies. To include a clause that should the property be sold the seller takes all reasonable steps to ensure the purchaser will comply with the occupancy restriction and any occupier shall provide to the Local Planning Authority any reasonable evidence of compliance on request.
- (3) Management of on-site amenity areas as per the original S106 to include the additional five dwellings and new footpath link.

Not to enforce the provisions at paragraph 6 of Schedule 1 to the original Section 106 Agreement relating to the provision of the originally proposed Footpath Link across Charity Land (the need for this link being effectively replaced and met by the new access through Rosa Close).

Firstly not to enforce the provisions of paragraph 1.2 of Schedule 1 to the Agreement (being a requirement not to Commence Development until the Allotment Lease or agreement for lease has been completed); and;

Secondly not to immediately enforce the provisions of paragraph 1.3 of Schedule 1 to the Agreement (being a requirement not to Occupy more than 9 dwellings until the works comprised in the agreed Allotment Specification

has been carried out and completed to the satisfaction of the Council and the Parish Council) for so long as the Allotment Lease / agreement for lease has not been completed.

Conditions:

- (1) The development hereby permitted shall not be carried out otherwise than in accordance with the following plans and documents:
- (2) Prior to the first occupation of the development hereby permitted the proposed access and on-site car parking areas shall be laid out in accordance with the approved plan and retained thereafter available for that specific use.
- (3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification), no extensions, roof alterations or ancillary buildings as defined within Classes A, B, C and E of Part 1 of Schedule 2 of that Order shall be carried out on the land unless an appropriate planning application is first submitted to and approved by the Local Planning Authority.
- (4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification), no fences, gates, walls or other means of enclosure as defined within Class A of Part 2 of Schedule of that Order shall be carried out on the land unless an appropriate planning application is first submitted to and approved by the Local Planning Authority
- (5) Within one calendar month of the granting of this permission, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall indicate:

- the species, number, size and position of new trees and shrubs at the time of their planting
- specification of materials for fences, walls and hard surfaces.

The scheme as approved shall be carried out not later than the next available planting season following the commencement of development or such further period as the Local Planning Authority may allow in writing. If within a period of FIVE years from the date of

planting, any tree or plant or any tree or plant planted in replacement for it, is removed, uprooted or is destroyed or dies, [or becomes in the opinion of the Local Planning Authority, seriously damaged or defective] another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

- (6) Within one calendar month of the granting of this permission, full details of the construction specification and details of proposed lighting with respect to the footpath from the site to Rosa Close shall be submitted to and approved by the Local Planning Authority in writing. The equipment shall be installed, operated and maintained in accordance with the approved plans prior to the first occupation of the development.
- (7) The provision of an access gate on the northern boundary and footway to Rosa Close as shown on the approved plans shall be completed prior to the first occupation of the development and shall be retained as such thereafter.

Reasons:

- (1) For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans and documents.
- (2) To ensure the permanent availability of the parking / manoeuvring areas, in the interests of satisfactory development and highway safety.
- (3) To ensure the satisfactory appearance of the dwellings in accordance with Policy GC4 of the Development Management DPD 2015.
- (4) To ensure the satisfactory appearance of the site in accordance with Policy GC4 of the Development Management DPD 2015.
- (5) To ensure the provision of amenity afforded by appropriate landscape design in accordance with Policies GC4, EN1, EN2 and EN3 of the Development Management DPD 2015.
- (6) To ensure the satisfactory development of the site without prejudice to the amenity of the site in accordance with Policy GC4 of the Development Management DPD (2015).
- (7) To ensure the satisfactory development of the site without prejudice to the amenity of the site in accordance with Policy GC4 of the Development Management DPD (2015).

Informatives:

- (1) The local planning authority has taken a proactive and positive approach to decision taking in accordance with the requirements of paragraphs 186-187 of the National Planning Policy Framework.
- (2) If this development involves any works of a building or engineering nature, please note that before any such works are commenced it is the applicant's responsibility to ensure that, in addition to planning permission, any necessary consent under the Building Regulations is also obtained. Advice in respect of Buildings Regulations can be obtained from CNC Building Control Consultancy who provide the Building Control service to Broadland District Council. Their contact details are; telephone 0808 168 5041 or enquiries@cncbuildingcontrol.gov.uk and the website www.cncbuildingcontrol.gov.uk
- (3) The applicant needs to be aware that the Community Infrastructure Levy (CIL) will be applied to development on this site.
- (4) S106.

The Committee adjourned at 10:50am and reconvened at 10:57am when all of the Members listed above were present for the remainder of the meeting.

55 APPLICATION NUMBER 20181641 – BARN AT WOOD NORTON ROAD, FOULSHAM

The Committee considered an application for the conversion and extension of an agricultural barn into a residential dwelling and the change of use of agricultural land to residential curtilage at Wood Norton Road in Foulsham. Prior approval had previously been granted for the conversion of the barn into a three bedroom residential dwelling in June 2018 and the main changes as part of this new application were the inclusion of a single storey extension to the west side of the barn; some minor changes to the fenestration on the south elevation and the inclusion of three rooflights on the barn. In addition, the area of land for the residential curtilage was proposed to be increased from approximately 274m² as previously approved to approximately 2,580m².

The application was reported to committee as the recommendation for approval was contrary to development plan policies.

The Committee noted that the Tree Protection Plan, referred to in paragraph 9.11 of the report, had not been received and accordingly, an additional condition was being proposed and also noted that the applicant was

suggesting relocating the septic tank due to its proximity to several trees and accordingly, another further condition was being proposed, all as reported in the Supplementary Schedule. As no justification had been given for a septic tank the condition was proposed to be changed so that it referred to foul water proposals in general rather than specifically a septic tank, as previously set out in the Supplementary Schedule. The Senior Planning Officer advised that an amended location plan had subsequently been received and therefore the list of drawings in condition (2) would need to be updated accordingly. In addition, the Committee received the verbal views of Sam Jones of Lanpro (the agent) at the meeting.

As the barn already had permission to be converted into a residential dwelling which could still be implemented, the Committee considered that the principle of the conversion had been established. Notwithstanding this, it was considered that the application met the requirements of Policy GC3 of the DM DPD in that the building was capable of conversion without substantial alteration and the conversion would lead to an enhancement of the immediate setting.

Members noted that the change of use of agricultural land to residential curtilage was the element of the application which was contrary to the development plan. It was considered that the increased size of the residential curtilage would result in better living conditions for the applicant and an improved form of development within the curtilage following the current plot boundaries. Furthermore, as much of the parcel of land was currently within an area of hardstanding, its conversion would not result in any visual harm to the rural landscape, particularly as the site was well screened when viewed from Wood Norton Road to the west and was only partially visible when viewed from the more elevated section of Wood Norton Road to the south.

The amended plans for the barn were supported by the Council's Historic Environment Officer and the Committee concurred that the extension was of an acceptable size and scale and the continuation of the rectangular form and consistent ridge height would maintain the agricultural form of the building. It was considered that the design of the main barn and the choice of materials were also considered to be acceptable and overall, its conversion would enhance the overall appearance of a relatively plain building.

As there was a good degree of separation between the barn and any neighbouring residential property, coupled with the single storey nature of the building, it was considered that the building would not appear overbearing or dominating. Overall, the proposal would have no detrimental impact upon neighbour amenity and therefore, the application was considered to comply with Policy 4 of the DM DPD.

In terms of highway safety, the Committee noted that the Highway Authority had not objected to the proposals and the application was considered to comply with Policies TS3 and TS4 of the DM DPD.

In terms of all other matters raised by consultees, the Committee concurred with the officer's appraisal in the report and noted that any unresolved issues would be dealt with by the imposition of appropriate conditions / informatives.

In conclusion it was considered that the proposal would not result in any significant harm and therefore, represented an acceptable form of development. Accordingly, it was

RESOLVED:

to approve application number 20181641 subject to the following conditions:

- (1) The development to which this permission relates must be begun not later than THREE years beginning with the date on which this permission is granted.
- (2) The development hereby permitted shall not be carried out otherwise than in accordance with the plans and documents listed below.
 - Proposed Location Plan (Amended), Dwg No: 0947-01-002-3, received 14 November 2018
 - Proposed Site Plan (Amended), Dwg No: 0947-01-004-4, received 14 November 2018
 - Proposed Ground Floor Layout Plan (Amended), Dwg No: 0947-03-001-5, received 14 November 2018
 - Proposed Elevations (Amended), Dwg No: 0947-03-002-3, received 14 November 2018
- (3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other order revoking and re-enacting or modifying that Order), no development permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 or Classes A and C of Part 2 of Schedule 2 of that Order shall be carried out without the prior consent of the Local Planning Authority.
- (4) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be supplied to the local planning authority for consideration before any development begins. If any contamination is found during the site investigation, a report specifying the measures to

be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority before commencement of the remediation of the site. The site shall be remediated in accordance with the approved measures and a post remediation validation report produced and submitted to the local planning authority to demonstrate the successful remediation of the site.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The additional remediation of the site shall incorporate the approved additional measures.

- (5) Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall indicate:

- (a) the species, number, size and position of new trees and shrubs at the time of their planting
- (b) all existing trees and hedgerows on the land, with details of any to be retained (which shall include details of species and canopy spread, root protection areas as required at para 4.4.2.5 of BS5837: 2012), together with measures for their protection during the course of development
- (c) Details of boundary treatments and specification of materials for fences, walls and hard surfaces
- (d) details of any proposed alterations in existing ground levels and of the position of any proposed excavation or deposited materials
- (e) details of the location of all service trenches.

The scheme as approved shall be carried out not later than the next available planting season following the commencement of development or such further period as the Local Planning Authority may allow in writing. If within a period of FIVE years from the date of planting, any tree or plant or any tree or plant planted in replacement for it, is removed, uprooted or is destroyed or dies, [or becomes in the opinion of the Local Planning Authority, seriously damaged or

defective] another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

- (6) Prior to the commencement of development a scheme for the protection of the retained trees that complies with the relevant sections of British Standard 5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations, shall be agreed in writing with the Local Planning Authority (LPA). A plan shall be submitted to a scale and level of accuracy appropriate to the proposal that shows:
- (a) the position and Root Protection Areas (RPAs) of every retained tree on site and on neighbouring ground to the site in relation to the approved plans.
 - (b) the details and positions of the Tree Protection Barriers. Barriers should be fit for the purpose of excluding construction activity and storage of materials within RPAs appropriate to the degree and proximity of work taking place around the retained tree(s).
 - (c) the details and positions of the Ground Protection Zones. Ground protection over RPAs should consist of scaffold boards placed on top of 100-150mm layer of woodchip which is underlain by ground sheets.

No works should take place until the Tree Protection Barriers and Ground Protection are installed.

In the event that any tree(s) become damaged during construction, the LPA shall be notified and remedial action agreed and implemented. In the event that any tree(s) dies or is removed without the prior approval of the LPA, it shall be replaced within the first available planting season, in accordance with details to be agreed with the LPA.

- (7) Prior to the commencement of the development hereby approved, a plan showing the details and location of the proposed septic shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed in accordance with the approved details.

Reasons:

- (1) The time limit is imposed in compliance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- (2) For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans and documents.
- (3) To ensure the satisfactory appearance of the building and satisfactory development of the site in accordance with Policy GC4 of the Development Management DPD 2015.
- (4) Due to the sites military and agricultural use and to ensure that risks from potential land contamination to the future users of the land and neighbouring land are minimised in accordance with policy EN4 of the Development Management DPD 2015.
- (5) To ensure the provision of amenity afforded by appropriate landscape design in accordance with Policies GC4, EN1 and EN2 of the Development Management DPD 2015.
- (6) To ensure that trees and other natural features to be retained are adequately protected from damage to health and stability throughout the construction period in the interest of amenity in accordance with Policy GC4 of the Development Management DPD 2015.
- (7) To ensure the satisfactory development of the site in accordance with Policy GC4 of the Development Management DPD 2015

Informatives:

- (1) The Local Planning Authority has taken a positive and proactive approach to reach this decision in accordance with the requirements of paragraph 38 of the National Planning Policy Framework.
- (2) If this development involves any works of a building or engineering nature, please note that before any such works are commenced it is the applicant's responsibility to ensure that, in addition to planning permission, any necessary consent under the Building Regulations is also obtained. Advice in respect of Buildings Regulations can be obtained from CNC Building Control Consultancy who provide the Building Control service to Broadland District Council. Their contact details are; telephone 0808 168 5041 or enquiries@cncbuildingcontrol.gov.uk and the website www.cncbuildingcontrol.gov.uk
- (3) Based on information provided with this application it has become apparent that asbestos containing material may be present within the existing building structure. The removal of asbestos materials must be carried out in accordance with appropriate guidance and legislation

including compliance with waste management requirements. Accordingly any works should be managed to avoid damage to any asbestos containing material such as to prevent the release or spreading of asbestos within the site or on to any neighbouring land. Failure to comply with this may result in the matter being investigated by the Health and Safety enforcing authority and the development not being fit for the proposed use. In addition the developer may incur further costs and a time delay while ensuring the matter is correctly resolved.

- (4) The buildings / site to which this permission relates contains suitable habitat for bats, barn owls or reptiles which are protected by the Wildlife and Countryside Act 1981 (as amended). In this respect the applicant is advised to consult Natural England, Dragonfly House, 2 Gilders House, Norwich, NR3 1UB or enquiries.east@naturalengland.org.uk.
- (5) If bats or signs of bats are found prior to, or during the development work should stop in that part of the building (eg the roof covering replaced carefully in that area) and a suitably licenced bat ecologist should be contacted for advice. Bats must not be handled.

Due to the presence of locally foraging bats and features of low suitability for roosting bats on the building if development work has not commenced within two years (ie by September 2020) then an update of the inspection survey is recommended.

- (6) Due to the potential presence of nesting birds on the building it is recommended that work to the building is started outside the nesting bird season of March to August inclusive, unless advised by an ecologist of no active nests. If work is undertaken during the nesting bird season a precautionary check by the ecologist should be undertaken prior to work. In the event that active nests are present a stand-off distance of 10m will be set where no work would be undertaken within that zone until the young have fledged and the nest is no longer active.

56 APPLICATION NUMBER 20180412 – BEESTON PARK, LAND NORTH OF SPROWSTON AND OLD CATTON

The Committee considered an application which had been submitted to comply with condition 21 of outline planning permission 20161058 requiring the submission and approval of a Design Code to ensure a co-ordinated approach to design across the site at Beeston Park on land north of Sprowston and Old Catton. The developers had been working closely with officers after submission of the document to ensure that it complied with the condition – setting out the guiding principles and mandatory requirements for

development based on the outline consent.

In presenting the report, the Planning Projects & Landscape Manager advised the Committee that the majority of the issues raised by the Highways Authority had been resolved with only two minor issues outstanding. Therefore, the officer recommendation was amended to one of delegated authority to the Head of Planning to approve subject to the issues raised by the Highways Authority being satisfactorily addressed.

The application was reported to committee at the request of the Head of Planning as it was considered important to have the agreement of Members to the Design Code as the principles within it were fundamental to the consistent, high quality, sustainable delivery of the Beeston Park development.

The Committee received the verbal views of Mrs Leggett, Chairman of Old Catton Parish Council and Mrs Vincent, one of the Ward Members, at the meeting. These related to perceived omissions within the Design Guide with particular reference to its compatibility with the Old Catton Neighbourhood Plan.

Members noted that the Design Code did not set every detail but was intended to allow designers a degree of creative flexibility as long as the design quality was retained. Scope also remained for discussion with the planning authority on detailed design matters which would be subject to subsequent reserved matters applications. The main thrust of the Code was to ensure an integrated, sustainable development with a strong sense of place and identity.

It was considered that the Design Code complied with the policies of both Sprowston and Old Catton Neighbourhood Plans and following the response of the Planning Projects & Landscape Manager to the concerns raised by the speakers at the meeting, Members were reassured that the issues raised were either covered in the Design Code or would be addressed as part of any Reserved Matters application. The Development Manager reaffirmed that consideration of each Reserved Matters application would include an appraisal of the Neighbourhood Plan policies.

In conclusion it was considered that the document would provide clear design guidance on which to base subsequent reserved matters to ensure a sustainable, high quality, integrated development with a strong sense of place and identity secured.

Accordingly, it was

RESOLVED:

to delegate authority to the Head of Planning to approve the Design Code subject to the issues raised by the Highway Authority being satisfactorily addressed.

The meeting closed at 11:50am

DRAFT

ADDENDUM TO APPLICATION NO: [20181177](#): DETAILS TO BE APPROVED UNDER LOCAL DEVELOPMENT ORDER CONDITION 2.20 – CHURCH LANE, HONINGHAM

1 INTRODUCTION

- 1.1 On 3 October 2018 Planning Committee resolved to approve the details submitted under condition 2.20 of the Local Development Order (LDO). (A copy of the report and accompanying papers are attached at Appendix 1). The Planning Committee also resolved that:

Further details in respect of scaled plans are required to be submitted under Condition 2.20 of the LDO, to the Local Planning Authority and agreed, in consultation with the Highway Authority and, where appropriate Highways England, to identify:

- *Realignment/change of priority at the junction of Dereham Road/Church Lane*
- *A right turn lane from Dereham Road into Church Lane*
- *A scheme of widening improvements to Church Lane*
- *Enhanced footway and cycle facilities to connect with Dereham Road*
- *The closure of Blind Lane.*

These works shall be carried out as approved and brought into use upon completion of 10,000m² of development floorspace on the LDO, unless otherwise agreed by the Local Planning Authority including but not limited to, if a high traffic generator is proposed within the LDO or if direct access to the A47 can be achieved.

- 1.2 For the sake of completeness the wording of condition 2.20 is:

“Prior to the commencement of development, a scheme of works shall be submitted and agreed in writing with the Local Planning Authority in consultation with the Highway Authority and, where appropriate, Highways England. The scheme of works shall include the following elements, unless otherwise agreed in writing with the local planning authority and identify triggers for the implementation of each component:

- *Realignment / change or priority at the junction of Dereham Road/Church Lane*
- *A right turn lane from Dereham Road into Church Lane*

- *A scheme of widening improvements to Church Lane*
- *Vehicular access to the LDO site either off Church Lane / Red Barn Lane or directly from the A47*
- *Enhanced footway and cycle facilities to connect with Dereham Road*
- *The closure of Blind lane to vehicular traffic*

1.3 On 14 November 2018 this Council received a copy of an application made by Easton Parish Council (EPC) to the High Court to bring a claim for Judicial Review (JR) which seeks to quash four decisions relating to the Food Enterprise Park and the proposed milling facility. One of the four decisions being challenged is the Planning Committee's decision to approve the scheme of highway improvements submitted under 20181177. The main document in EPC's submission: 'Statement of Facts and Grounds', is attached as Appendix 2 to these committee papers.

1.4 In light of the legal challenge no decision was issued for application ref. no. 20181177. All the relevant papers have been reviewed with the Council's legal representatives and as a result of this review the matter is being referred back to Planning Committee to enable Members to give further consideration to the proposal having regard to the points raised in EPC's legal challenge.

2 SUMMARY OF KEY ISSUES RAISED IN EPC's CLAIM FOR JR

2.1 The following paragraphs represent a summary of the key issues raised in EPC's claim for JR insofar as they relate to application no: 20181177. The numbers in brackets represent the paragraph number in the appended 'Statement of Facts and Grounds'.

2.2 (48&49) EPC claims that condition 2.20 requires that the submitted scheme includes six specified elements unless otherwise agreed in writing by this Council. This does not allow for a partial scheme to be agreed until a certain level of development has occurred on site. Accordingly, the condition cannot be discharged and development cannot commence before a written scheme which fully addresses the six specified elements (or deletes some of them) has been submitted.

2.3 (51&52) EPC claims that in paragraph 1.2 of the Planning Committee report Members were advised that the routing of traffic along Church Lane applies until vehicular access is provided from the A47 and that the Committee gave weight to this statement when reaching their decision. EPC also refer to an email from the applicant dated 13 July 2018 and a document which sets out proposed triggers for the scheme of highway works and it is claimed that these documents present a different approach to the statement in paragraph 1.2 of the Committee report. EPC have submitted that: *"the information given*

to the Planning Committee was so at variance with what was contained in the apparently agreed trigger document that its decision was taken under significant misapprehension of fact. The Claimant had a legitimate expectation that the Committee would not take a decision under those conditions”.

- 2.4 (56&57) EPC claims that it did not receive the list of triggers for the proposed works until 24 September. EPC claims it was unreasonable to consult them and expect a response by midday on 1 October given the technical nature of the proposals, the serious concern EPC had previously expressed regarding the highway implications of the Local Development Order and due to the fact that the proposed works are within EPC's boundaries.

3 RESPONSE TO KEY ISSUES RAISED IN EPC's CLAIM FOR JR

- 3.1 The following paragraphs provide a response to the claims made by EPC in its legal submissions as summarised in section 2 above. For ease of reference the relevant paragraph in EPC's 'Statement of grounds and facts' is again in brackets.
- 3.2 (48&49) *condition 2.20 does not allow for a partial highways scheme to be approved:* condition 2.20 requires a scheme of works to be submitted and agreed in consultation with the Highway Authority and, where appropriate Highways England. The condition states that the scheme shall include the six elements listed in paragraph 1.2 unless otherwise agreed in writing with the local planning authority. It also requires triggers for the implementation of each element. The reason for the condition is: *“In the interests of highway safety, to safeguard residential amenity, to provide adequate protection to the natural environment and to ensure the satisfactory development of the site, having regard to the rural setting”*
- 3.3 When considering the scheme of highway works required by condition 2.20 officers were cognisant of the fact that a highway scheme designed to satisfactorily serve the LDO site operating at full capacity would have a significant impact upon the rural character of the existing road network, notably Church Lane. Furthermore, it is very difficult to accurately predict the traffic flows arising from a fully occupied LDO site due to the fact that the end-users (with the exception of Condimentum) are currently unknown. As a consequence, it is also very difficult to design a final highway scheme which can accommodate a wide range of potential traffic flows and at the same time protect the natural environment and the rural setting of the area.
- 3.4 Members are also advised that there is nothing in condition 2.20 which prohibits an interim highway scheme being approved and the condition makes it clear that a variance to the six specified elements stated in the condition can be agreed in writing with the Local Planning Authority.

- 3.5 Having regard to the above points officers accepted that receiving and considering an interim highway scheme was a reasonable approach which would allow up to 10,000m² of development floorspace to be satisfactorily accessed by the approved works. More specifically, five out of the six elements in condition 2.20 are included in the submitted scheme (the only exception is the closure of Blind Lane) and the 1st, 2nd and 4th bullet points are met in full. The proposed passing bays and a trod along Church Lane (pursuant to the 3rd and 5th bullet points) to serve up to 10,000sq metres are considered to be much more in accordance with the full reason for the condition referred to above compared to the greater environmental impact associated with a full road widening scheme and a 3m wide ped/cycle path (which is in-part the anticipated highway scheme to serve the entire LDO site).
- 3.6 Although the interim scheme does not include the closure of Blind Lane (bullet point 6) the routing agreement which accompanies the LDO prohibits HGVs from using this route to and from the site and the Highway Authority is content that this road can remain open while the A47 dualling scheme is progressed. This matter can be reviewed as part of the post-10,000 m² scheme details of which were required by the Planning Committee's resolution on 3 October and it is recommended that the same resolution is reached having regard to the additional information presented in this addendum.
- 3.7 In summary, whilst condition 2.20 does not explicitly allow for an interim highway scheme to be submitted and agreed nor does it prohibit the submission of an interim scheme. In fact, it allows for a variance to the six bullet points to be agreed in writing. Furthermore, it is considered that the interim proposal is utterly consistent with the reason for condition 2.20 which seeks to protect the environment and the rural setting as well as highway safety. Further benefits of agreeing an interim scheme at this stage include the fact that future works (post-10,000m²) can be designed having regard to more detailed and definitive information about traffic flows and the timings of the A47 dualling scheme.
- 3.8 (51&52) *the information in para 1.2 of the Planning Committee report was so at variance with what was contained in the apparently agreed trigger document and in correspondence from the applicant that its decision was taken under significant misapprehension of fact.* for the sake of completeness the relevant correspondence and trigger document is attached at Appendix 3. It is unclear to officers what EPC's claim actually is. Paragraph 1.2 is stating a fact, ie that the routing agreement specifies all vehicles in excess of 7.5 tonnes shall gain access to the LDO site from the A47 via Church Lane and the Easton roundabout. Furthermore, the routing agreement applies until direct vehicular access is provided to the site from the A47. The appended correspondence and trigger document are not at variance to this statement. In fact it is noted that paragraph 51 of the claimant's 'Statement of Facts and Grounds' inaccurately describes: "...that the routing of traffic [it does not state

vehicles over 7.5 tonnes] along Church lane applies until vehicular access is provided from the A47”.

- 3.9 Notwithstanding the above points, Members have now been presented with the relevant documents in this report and therefore the claim of EPC is addressed.
- 3.10 (56&57) *insufficient consultation period regarding the proposed triggers:* whilst the concerns of EPC are noted, it is not considered that these concerns should prevent or delay the Planning Committee reaching a decision regarding 20181177 when this matter is reconsidered. This conclusion is based upon the fact that the triggers appended at Appendix 3 are not complex or technical and they relate to works which have been proposed under condition 2.20 since the LDO was adopted in October 2017. Furthermore, at no stage since the committee meeting on 3 October has EPC given an indication of what comments it would have submitted if the consultation period had been longer.

4 ADDITIONAL REPRESENTATIONS RECEIVED SINCE 3 OCTOBER

- 4.1 In addition to the claim for a JR submitted to the High Court by EPC, the Council has received correspondence regarding 20181177 from Mr Bryan Robinson since the Planning Committee meeting on 3 October 2018. One of Mr Robinson's letters accorded with pre-action protocol which effectively warned this Council that he was preparing to submit a claim for a JR.
- 4.2 In his pre-action protocol letter, Mr Robinson raises the same concern as EPC that the highway scheme is only an interim proposal. This issue has been addressed above.
- 4.3 In a separate letter dated 13 October, Mr Robinson asks for a safety audit to be carried out for the construction phase of the development in addition to the stage 2 safety audit which is undertaken as part of the design process and the post-construction audit.
- 4.4 In response to this request, the Highway Authority has confirmed that a draft S278 agreement (which is the agreement with the County Council to allow works to be carried out to a public highway) includes a clause which requires the developer/contractor *“to ensure the safety of the public at all times during the carrying out of the works”*. Furthermore, any contractor for either the highway works or the development on the LDO site will have its own health and safety files and as a consequence, it is considered that there is no justification to require a safety audit for the construction phase of the development.

5 CONCLUSIONS

- 5.1 Having regard to all the issues raised with regard to 20181177 in EPC's claim for JR and the other points raised in the correspondence from Mr Robinson and the responses contained within this addendum report, it is concluded that Planning Committee can justifiably approve the submitted details submitted in regard to condition 2.20 and in accordance with the recommendation in paragraph 6.1 of the attached report.

Phil Courtier
Head of Planning

Background Papers

Planning application file 20181177.

For further information on this report call Phil Courtier 01603 430549 or email phil.courtier@broadland.gov.uk

APPLICATION NO: [20181177](#) – DETAILS TO BE APPROVED UNDER LOCAL DEVELOPMENT ORDER CONDITION 2.20 – CHURCH LANE, HONINGHAM

1 INTRODUCTION

- 1.1 A Local Development Order (LDO) was granted by the District Council in October 2017 for a Food Enterprise Zone (FEZ) on land at Honingham. The LDO effectively grants planning permission for specified agri-tech developments on a site of 19 hectares, subject to conditions being complied with and that vehicular access to and from the site accords with the vehicular routing agreement set out in a Section 106 Legal Agreement which accompanies the LDO.
- 1.2 The routing agreement specifies that all vehicles in excess of 7.5 tonnes visiting the site for the purposes of and in connection with the LDO development, shall gain access along the permitted route – being Church Lane to the Easton roundabout at the A47. The routing agreement applies until vehicular access is provided between the LDO site and the A47 trunk road.
- 1.3 Condition 2.20 of the LDO requires details of the scheme of highways works to be submitted and agreed in writing by the Local Planning Authority in consultation with the Highway Authority and, where appropriate Highways England, prior to the commencement of development, including triggers for the implementation of each component of the works.
- 1.4 The components of the scheme of works are:
- *Realignment/change of priority at the junction of Dereham Road / Church Lane*
 - *A right turn lane from Dereham Road into Church Lane*
 - *A scheme of widening improvements to Church Lane*
 - *Vehicular access to the LDO site either off Church Lane/Red Barn Lane or directly from the A47*
 - *Enhanced footway and cycle facilities to connect with Dereham Road*
 - *The closure of Blind Lane*

- 1.5 Details have been submitted under ref: 20181177 in respect of the vehicular access to the LDO and interim proposals for highway improvements to Church Lane comprising 4 no: passing bays (each 30m long x 2-3m wide) to the north west side of Church Lane with drainage soakaways and interim footway and cycle facilities to connect to Dereham Road in the form of a 1.5m wide TROD (a path constructed of unbound material) from the LDO vehicular access to the informal parking area to the side of the Church of St Peter, Easton. The TROD runs up to the edge of each passing bay and is separated from the carriageway by a 0.5m grassed verge. A 40m long section of Church Lane is shown to be widened by 1m at the bend in Church Lane, near the church. In addition a 1.5m wide footway is proposed within the highway verge on the opposite side of Church Lane to the church which will enable a connection to the existing footway to the south of Dereham Road. The trigger for these works is prior to the first occupation of a development on the LDO site.
- 1.6 The trigger for the remaining parts of the highway improvements works specified in condition 2.20, together with the full widening of Church Lane and the full provision of footway and cycle facilities to Dereham Road is upon the provision of 10,000m² of development floorspace on the LDO site, unless otherwise agreed in writing by the local planning authority including but not limited to a high traffic generator being proposed within the LDO or if direct access to the A47 can be achieved.
- 1.7 The length of the proposed works from the LDO access to the edge of the 1.5m wide footway roughly opposite the church are approximately 916m.
- 1.8 The applicant has confirmed that they believe that the proposed works have no detrimental effect on the church and are therefore in accordance with Policy 4 of the Easton Neighbourhood Plan.
- 1.9 Although the LDO legislation does not require that local consultation on the details of conditions is undertaken. In this case local consultation has been undertaken due to the nature of the proposals.

2 CONSULTATIONS & REPRESENTATIONS (summarised)

2.1 Honingham Parish Council:

No comment received.

2.2 Easton Parish Council:

Comments to be reported.

2.3 Marlingford & Colton Parish Council:

A 1.5m wide trod could, in principle, be suitable for pedestrian access. For shared use by cyclists it would seem to be unsuitable. The recommended minimum width for a path with shared use is 3.0m, as indicated in the guidelines provided by the Department of Transport and by Sustrans. Further, a compressed, unbound, surface is unlikely to be appropriate for use by cyclists. Thus this part of Section 2.20 is not met with respect to cyclists.

It is a concern that the proposed resurfacing of the existing carriageway is very limited and the Council asks that this should be improved.

With regard to the proposed entrance: a major objective of condition 2.20 and the Section 106 Agreement is to limit HGV traffic so as to avoid such traffic using the narrow roads to the south and west in the parish of Marlingford and Colton and other parishes beyond. It seems to the Council that a significant contribution to achieving that objective would be to make the exit from the site left turn only. Following the establishment of a direct connection between the Food Enterprise Zone and the A47, the Section 106 agreement would lose its effect; we request that at this time the road be closed to heavy goods traffic or, failing that, an exit with left turn only would continue to provide valuable protection.

2.4 Norfolk County Council – Highway Authority:

The access is within the boundary of the LDO site and as required under condition 2.20 has been submitted to the Local Planning Authority and Highway Authority. In accordance with condition 2.20 (bullet point IV) the access will be in place prior to first occupation. Condition 2.20 also requires triggers to be set for the delivery of the off-site works identified within the LDO. Application 20181294 identifies the scale of the first unit and the highway authority considers that the off-site works of passing bays and pedestrian facilities (as required under bullet points III and IV of the LDO) are appropriate as an interim measure for this scale of development and should be in place prior to first occupation.

Given that additional works will be required as the site is developed, the highway authority considers that a trigger of 10,000m² is appropriate for the rest of the off-site works which comprises bullet points I and II, (the full works under III and V) and VI. These works should be upon completion of 10,000 sq. m of development floorspace on the LDO, unless otherwise agreed in writing by the local planning authority including but not limited to, if a high traffic generator is proposed within the LDO or if direct access to the A47 (T) can be achieved.

The submitted proposals will need to be subject to a detailed design check and a Stage Safety Audit before delivery of the scheme can be undertaken. The scheme will be delivered under a Section 278.

Please be aware it is the applicant's responsibility to clarify the boundary with the public highway. Private structures such as fences or walls will not be permitted on highway land.

The highway boundary may not match the applicant's title plan. Please contact the highway research team at highway.boundaries@norfolk.gov.uk for further details.

Given the above, the Highway Authority has no objection to the submitted access and off site works proposals.

2.5 South Norfolk Council:

No comments or objections.

2.6 Campaign to Protect Rural England (CPRE):

We have a number of concerns relating to the new application as follows:

- Currently Church Lane is an unclassified road; the S106 agreement on which the LDO relies establishes that Church Lane is the only permitted route for HGV's to the site, both for construction and operation. As a designated HGV route it is inappropriate for it to remain unclassified and should be fully upgraded. A series of passing bays is therefore unsuitable for the proposed HGV usage.
- Plan 2 of the routing agreement permits HGVs to use the full length of Church Lane and Red Barn Lane but the road improvements under this application are restricted to Church Lane only. Is a new S106 required to restrict HGVs to Church Lane only or whether suitable road improvements will be proposed for Red Barn Lane?

We are pleased to note that the details include provision for other road users, but we don't consider that a 1.5m wide TROD will be suitable. A recommended width for passing cyclists is 2.5m, further we don't consider that these users should share the same space as cars and HGV's at the passing bays.

The closure of Blind Lane is stated as not necessary at this time due to the uncertainty of the proposed A47 dualling works. We consider that this uncertainty means that the requirement of the Highway Authority that Blind Lane should be closed are still relevant and should only be reconsidered when actual changes to the A47 and surrounding roads have been completed which is unlikely before 2023.

2.7 Wensum Valley Alliance, c/o 8 The Boulevard, Thorpe End:

Concerned about the visual intrusion and environmental issues for the river valleys in the vicinity, namely the Yare to the south and the Tud and Wensum to the north. The Flood Risk & Drainage Strategy Report for the LDO stated that the ground conditions are not suitable for infiltration drainage and the next tier down of sustainable approaches is for surface water drainage to be directed to local water courses. The same engineers are now proposing infiltration drainage to the extended road areas and we request that the implications of surface water run-off and overflow are reviewed. In addition, we consider that there is a lack of consideration for the location and use of St Peters Church, a grade I listed building with needs of access and parking improvements. The intention is to upgrade this for HGV use as the LDO S106 agreement. We question whether a series of passing bays is suitable for the proposed upgrade to a designated HGV route, is the S106 to be revised? Is the TROD suitable and safe for both pedestrians and cyclists? Broadland District Council are in the strange position of being proposer, approver and apparently enforcer for this unfortunate site area, without any apparent need to consult with any persons who may have legitimate concerns about the impact of any proposals. We challenge whether this is a legitimate use of a Council's authority and the implications for that authority in the event of an incident impacting upon Norwich City's water supply and the surrounding river environments.

2.8 Interim Priest in charge of the Easton Benefice, Heath Farm House, Coltishall Road, Buxton:

The Parochial Church Council expresses concern that the anticipated increase in traffic flow along Church Lane will further orphan St Peter's Church from the settlement of Easton. This increase in traffic will make St Peter's increasingly unwelcome to pedestrians wishing to visit the church, noting there is no parking facility at St Peter's Church. The proposed road widening would have a detrimental effect on safe parking at all times and cause serious, potentially dangerous situations when the church is hosting larger events eg weddings, funerals and baptisms. Concerned about the increased risk of accidents due to flooding close to the church and noise and air pollution arising from the increased traffic. Closer links to Easton School will mean more children will need to cross the road and this will be more dangerous given the increased use of Church Lane by cars and HGVs. Concerned that the diversity of wildflowers and butterflies that have been recorded within the churchyard would be adversely affected by the food hub proposals. Traffic on the A47 already has an impact on the medieval foundations of the listed church and heavy goods vehicles on both sides could have a serious impact on its foundations and make the building unsafe.

2.9 Norfolk Chamber of Commerce:

We strongly believe that the Food Enterprise Park is essential to the region's food sector to facilitate growth and add value. Our region is already world-

leading with innovations in crop sciences and agri-tech. The Food Enterprise Park will help build upon these important innovations; create further jobs; and aid in securing Norfolk's place at the forefront of the food sector. We would like approval of the LDO conditions to pave the way for not only Condimentum but others that will further stimulate growth in both the region and the sector. Norfolk Chamber's key driver is to support our members and the business community as a whole to deliver high value jobs and economic growth. We feel that the current prolonged delivery journey of this project has hindered growth within a key sector that is significant to Norfolk. Therefore we would recommend that the project receive the support it needs to become a reality of both jobs and economic growth for Norfolk.

2.10 Cllr S Woodbridge:

I believe the overall scheme to be of great benefit to Norfolk generally, especially protecting the interests of agriculture and employment. Regarding the temporary entrance arrangements, I feel these are sensible given a desire to make early progress and note the access point at the Easton roundabout is to minimise traffic through Easton itself. As soon as the A47 improvement works receive their commissioning date, I note the condition applied to create a new entrance to the site which is to be welcomed and integrated to further protect residents.

2.11 Cllr S Clancy:

With reference to the above planning application, as you will appreciate in my former role as Economic Development Portfolio Holder and Deputy Leader of BDC I was actively involved in the process of the delivery of LDO at Honingham, which represents the largest single economic development opportunity for the land based industries in the GNDP area and probably in Norfolk. The opportunity to attract a significant investment and new business to the site is most pleasing. The scheme seems eminently sensible, as it will provide practical and safe means of accessing the LDO site for HGVs, cars, and pedestrians during the early stages of the site development, and occupancy. The proposed access and egress arrangement accords with the routing agreements, already in place and avoids the villages of Marlingford, Colton and Easton. This will offer a comparatively short term vehicular solution, as the medium to longer term solution will be the preferable access directly of the A47 once the dualling scheme has been completed.

However the current proposal offers an excellent interim solution, and will allow the site to progress toward a full occupancy thereby offering both opportunities in jobs, local added value food, research and crop science, and overall benefit to the Norfolk economy. Therefore I am fully supportive of the proposals.

2.12 Additional letters of support supplied by the applicant from Frontier, Agrovista UK, Food & Drink Forum, the AF group and British Beet Research Organisation.

2.13 South Norfolk Cllr M Dewsbury:

No comment received.

3 RELEVANT POLICY GUIDANCE

National Planning Policy Framework (NPPF) 2018 and Planning Practice Guidance (PPG) 2014 web based guidance:

- 3.1 Sets out the overarching planning policies on the delivery of sustainable development for rural communities through the planning system. It states that significant weight should be placed on the need to support economic growth and productivity taking account both of local business needs and wider opportunities for development. It also reinforces the position that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Joint Core Strategy for Broadland, Norwich and South Norfolk 2011 as amended (2014) – (JCS):

- 3.2 Policy 1: Addressing climate change and protecting environmental assets

Amongst other items, set out that the environmental assets of the area will be protected, maintained, restored and enhanced.

- 3.3 Policy 5: The economy

The local economy will be developed in a sustainable way to support jobs and economic growth both in urban and rural locations. The rural economy and diversification will also be supported.

- 3.4 Policy 6: Access and transportation

Seeks to concentrate development close to essential services and facilities to encourage walking and cycling as the primary means of travel with public transport for wider access.

Broadland Development Management DPD 2015 – (DM DPD):

- 3.5 Policy GC1: Presumption in favour of sustainable development

When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

3.6 Policy GC4: Design

Development will be expected to achieve a high standard of design and avoid any significant detrimental impact.

3.7 Policy TS3: Highway safety

Development will not be permitted where it would result in any significant adverse impact upon the satisfactory functioning or safety of the highway network.

3.8 Policy CSU5: Surface water drainage

Amongst other things, mitigation measures to deal with surface water arising from development proposals should be incorporated to minimise the risk of flooding on the development site without increasing flood risk elsewhere.

Other material considerations:

Planning (Listed Buildings and Conservation Areas) Act 1990:

- 3.9 Sections 16(2) and 66(1) provides that in considering whether to grant planning permission or listed building consent for development which affects a listed building or its setting, the local planning authority, or as the case may be the Secretary of State shall have special regard to the desirability of preserving the buildings or its setting or any features of special architectural or historic interest which it possesses.

Easton Neighbourhood Plan (Does not form part of the Development Plan as not in Broadland District):

3.10 Policy 1: Heritage Protection

Development proposals should preserve the local heritage of listed buildings and their settings or any features of special architectural or historic interest which they possess. Where appropriate these listed buildings should be enhanced and their setting preserved as part of any adjacent or associated development.

3.11 Policy 4: Church of St Peter

The integrity and setting of the Church of St Peter will be safeguarded. Any development proposals in the immediate vicinity of the church should demonstrate that they have been designed so that they do not generate substantial harm to the setting of the building. Development proposals should ensure that their arrangement of open space and landscaping are designed in a fashion that would protect and enhance the setting of the church.

4 PLANNING HISTORY

- 4.1 [20180471](#): LDO Access. Withdrawn June 2018.
- 4.2 [20170052](#): Greater Norwich Food Enterprise Park (LDO application). Approved October 2017.
- 4.3 South Norfolk Council planning application ref: 2014/2611 – The erection of 890 dwellings; the creation of a village heart to feature an extended primary school, a new village hall, a retail store and areas of public open space; the relocation and increased capacity of the allotments; and associated infrastructure including public open space and highway works. Outline application approved 1 November 2016 (reserved matters to be submitted before 1 November 2021 with a 3 year commencement of development following approval of the last reserved matters).

5 ASSESSMENT

- 5.1 The main issues to be taken into consideration in the determination of this submission are whether the details submitted are acceptable to allow condition 2.20 of the LDO to be approved taking account of the NPPF (2018), the Planning Practice Guidance and development plan policies. Further material considerations are the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Easton Neighbourhood Plan, with particular regard to whether the submitted details result in a significant detrimental impact upon the Grade I listed Church of St Peter, Easton.
- 5.2 The site is outside of a defined settlement limit but as the LDO has been granted the principle of development is established and the S106 routing agreement identifies Church Lane to the Easton roundabout as the route to and from the LDO site for vehicles in excess of 7.5 tonnes. It is necessary however to consider the specific highway issues against Policies TS3 and CSU5 of the DM DPD and Policy 6 of the JCS. Policy TS3 states 'development will not be permitted where it would result in any significant adverse impact upon the satisfactory functioning or safety of the highway network'. The comments of the Highway Authority are set out at paragraph 5.6 below, they have no objections to the proposal and therefore the requirements of Policy TS3 are complied with. Policy CSU5 requires 'amongst other things, mitigation measures to deal with surface water arising from development proposals should be incorporated to minimise the risk of flooding on the development site without increasing flood risk elsewhere'. In this case the passing bays are shown to be designed so that surface water is channelled to a soakaway. The proposals are below the threshold for the Lead Local Flood Authority to comment upon and are minor in nature, however surface water arising from the passing bays has been incorporated into the proposals and therefore meet the requirements of Policy CSU5. Policy 6 of the JCS identifies strategic access and transportation objectives for the Greater Norwich area.

- 5.3 The NPPF (2018) is supportive of sustainable economic growth and productivity and advises that a prosperous rural economy should be supported (section 6). In terms of highways considerations the NPPF at paragraph 108 sets out the considerations for assessing development proposals and advises that appropriate opportunities to promote sustainable transport modes can be taken up and safe and suitable access should be achieved for all users. Paragraph 109 states *'Development should only be prevented or refused on highway grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*. The proposals are considered to accord with the NPPF (2018).
- 5.4 It is noted that as part of the proposals are located with the parish of Easton it is appropriate to consider the proposals against the Easton Neighbourhood Plan (ENP), although the plan does not form part of Broadland District Council's development plan. It was adopted in September 2017 and the policies which require assessment are 1 & 4 as part of the proposed off-site highway improvement works are in proximity to a listed building (Policy 1) and the listed building is the Grade I listed Church of St Peter (Policy 4).
- 5.5 Policy 1 (Heritage Protection) states that development proposals should preserve the local heritage of listed buildings and their settings. Policy 4 (Church of St Peter) requires that the integrity and setting of the church will be safeguarded and any proposals in the immediate vicinity of the church should demonstrate that they have been designed so that they do not generate substantial harm to the setting of the building. In this case the width of the roadway on Church Lane in front of the church is proposed to be widened by up to 1m by re-painting the white lines on the carriageway (the existing kerb line will not be changed). A 1.5m wide footway is to be formed within the highway verge on the opposite side of Church Lane roughly opposite the church with a small section of path formed from the existing kerb to the existing path on the church side of Church Lane, but away from the front of the church, to form a crossing point. In addition, the northern end of the TROD connects to the informal parking area to the side of the church approximately 11m from the front of the church. These works are all minor and will be carried out under S278 of the Highways Act. It is therefore considered that the individual elements of the proposals and in combination have been designed so that they do not generate substantial harm to the setting of the Grade I listed Church of St Peter and do safeguard its integrity and setting. It is considered therefore that the proposals meet the requirements of Policies 1 and 4 of the ENP.
- 5.6 The Highway Authority has confirmed that the details submitted to meet the requirements of condition 2.20 of the LDO are acceptable. Their view is that the arrangement of the LDO access is acceptable and that due to the relatively low traffic generation of the first development on the LDO site (ref: [20181294](#)) the scheme of widening improvements to Church Lane and the provision of footway and cycleway facilities to connect with Dereham Road can be provided as an interim measure, the trigger for these works and the formation of the LDO access is prior to the first occupation of LDO

development, which they also agree. These works are to be delivered under Section 278 of the Highways Act 1980 as the works are within the highway boundary and will be managed by the County Council.

- 5.7 The Highway Authority has also agreed to the trigger for the remaining off-site highways works specified in condition 2.20, together with the full scheme of widening improvements to Church Lane and the full provision of footway and cycleway facilities to connect with Dereham Road which will be upon the completion of 10,000m² of development floorspace on the LDO site, unless otherwise agreed in writing by the Local Planning Authority including, but not limited to, if a high traffic generator is proposed within the LDO or if direct access to the A47 can be achieved.
- 5.8 As the proposals are considered to meet the policy requirements of the development plan, the NPPF (2018), the ENP and the requirements of the Highway Authority, then the submitted details are considered to be acceptable to allow condition 2.20 of the LDO to be approved.
- 5.9 It is noted that South Norfolk Council has granted Outline planning permission ref: 2014/2611 for a major residential development on the land to the south east of Church Lane, with allotments shown on the Illustrative Masterplan immediately adjacent to the site boundary to Church Lane. The vehicular access serving the residential development is onto Dereham Road to the north and there is no vehicular access onto Church Lane. It is considered that the submitted details under condition 2.20 of the LDO will have no adverse impact on the housing development.
- 5.10 Given that part of the proposed highway improvement works and a section of the footpath/cycleway are within the setting of the Grade I listed Church of St Peter, Easton it is necessary to assess the proposals against Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires the local planning authority to have special regard to the desirability of preserving the buildings or its setting or any features of special architectural or historic interest which it possesses. In this case the width of the road on Church Lane in front of the church is proposed to be widened by up to 1m by re-painting the white lines on the carriageway (the existing kerb line will not be changed). A 1.5m wide footway is to be formed within the highway verge on the opposite side of Church Lane roughly opposite the church with a small section of path formed from the existing kerb to the existing path on the church side of Church Lane, but away from the front of the church, to form a crossing point. In addition, the northern end of the TROD connects to the informal parking area to the side of the church approximately 11m from the front of the church. These works are all minor and will be carried out under a S278 of the Highways Act. It is therefore considered that each element has been designed to be sensitive to the Grade I listed church and special regard has been had to the desirability of preserving the setting of the Grade I listed Church of St Peter.

- 5.11 In considering the other issues raised by consultees it is noted that Marlingford & Colton Parish Council has requested that the proposed LDO access be redesigned to ensure that it has a left turn lane only onto Church Lane to prevent vehicles turning right and travelling towards Marlingford & Colton. The Highway Authority has not requested this revision as the routing agreement that exists requires that vehicles in excess of 7.5 tonnes must access and exit the LDO site via Church Lane and then access the A47 roundabout at Easton. The routing agreement applies until vehicular access is provided between the LDO site and the A47 trunk road. In addition the applicant, who is based at Honingham Thorpe Farm, has stated that a left turn lane only would prevent the interconnection of vehicles between the LDO site and Honingham Thorpe Farm that they anticipate. Therefore a left turn lane is not considered to be necessary in this case.
- 5.12 The comments of CPRE questioned whether the position of the LDO access in the south east corner of the LDO site with off-site highway improvement works proposed along Church Lane necessitates a revision to the S106 routing agreement to remove Red Barn Lane from the approved route. It is considered that this is not necessary to revise the S106 as the submitted plans are sufficient to identify the access and route to and from the LDO.
- 5.13 In summary it is considered that the details submitted including the triggers specified for the initial phase of works and the later phase are acceptable to both the Highway Authority and the District Council. The detailed off-site highway works are considered to meet the requirements of the development plan and the NPPF 2018 and the off-site highway improvements works have been assessed against the requirements of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Easton Neighbourhood Plan and it is considered that special regard has been had to the desirability of preserving the setting of the Grade I Listed Church of St Peter. The proposals therefore are considered to be acceptable and approval should be granted noting that further details will be submitted and agreed for the later phase of off-site highway improvement works set out in condition 2.20 of the LDO.

6 RECOMMENDATION

6.1 The Committee is RECOMMENDED:

to APPROVE the following details submitted under Condition 2.20 of the Local Development Order:

- (1) The development hereby permitted shall not be carried out otherwise than in accordance with the following plans and shall be brought into use prior to the first occupation of development on the LDO site:

Dwg. No. CL-1011 Rev. P3 – Details of junction for proposed estate road with Church Lane, received 13 July 2018

Dwg. No. CL-1010 Rev. P3 – General arrangement of proposed s.278 works on Church Lane, received 13 July 2018

Dwg. No. CL-1012 Rev. P3 – Typical construction details for proposed highway works (sheet 1), received 13 July 2018

Dwg. No. CL-1013 Rev. P1 – Typical construction details for proposed highway works (sheet 2), received 13 July 2018

Dwg. No. CL-1014 Rev. P1 – Typical construction details for proposed highway works (sheet 3), received 13 July 2018

- (2) Further details in respect of scaled plans are required to be submitted under Condition 2.20 of the LDO, to the Local Planning Authority and agreed, in consultation with the Highway Authority and, where appropriate Highways England, to identify:

- Realignment/change of priority at the junction of Dereham Road / Church Lane
- A right turn lane from Dereham Road into Church Lane
- A scheme of widening improvements to Church Lane
- Enhanced footway and cycle facilities to connect with Dereham Road
- The closure of Blind Lane.

These works shall be carried out as approved and brought into use upon completion of 10,000m² of development floorspace on the LDO, unless otherwise agreed by the Local Planning Authority including but not limited to, if a high traffic generator is proposed within the LDO or if direct access to the A47 can be achieved.

Phil Courtier
Head of Planning

Background Papers

Planning applications [20180471](#) and [20170052](#).

For further information on this report call Matthew Rooke 01603 430571 or email matthew.rooke@broadland.gov.uk

SUPPLEMENTARY SCHEDULE TO APPLICATIONS TO BE CONSIDERED

Plan No	Application No	Location	Update	Page Nos
Agenda item 6	20181177	Church Lane, Honingham	<p>Additional representations received:</p> <p>1 Horse & Groom Yard, Colton - additional comments:</p> <p>These applications seek to use the LDO site, yet seem to apply a bizarre mixture of LDO conditions and extra-LDO justifications to support them. Either they are entirely independent applications - in which case, of course, they cannot apply any of the LDO pre-conditions or exemptions - or they are seeking to vary the LDO conditions for the site, which must be a matter for consideration by the full Council. As they stand, it would seem that the Council's officers cannot properly consider them until proper clarification and answers to the many questions they raise have been properly answered. It seems entirely possible that any Council officer recommending their adoption in their current form would be acting ultra vires.</p> <p>Easton Parish Council: Object, full text of objection attached as SS Appendix 5.</p> <p>Joint comments received from Easton and Marlingford & Colton Parish Councils: Attached as SS Appendix 6.</p> <p>Officer comment:</p> <p>It should be noted that the scheme of highway works under the LDO are to be delivered through a Section 278 agreement with the Highway Authority who will administer, manage and inspect the works. A safety audit will be carried out by</p>	

			<p>the Highway Authority as part of their agreement. The Highway Authority raises no objection to the interim proposals or the triggers for the later phase of the scheme of highway works. Policies 12 and 13 of the ENP, which are in respect of traffic and sustainable transport modes, do not form part of the development plan but are material considerations. It is considered that as the Highway Authority has no objection to the approval of condition details and further consideration will be given to the remaining highway scheme of works then the proposals are acceptable against policies 12 and 13 of the ENP.</p> <p>The Council's solicitor has advised that the recommendation should be re-worded to include an implementation requirement but this is not considered to be necessary as condition 2.21 of the LDO adequately addresses the implementation of the scheme of highway works. He has also suggested that the trigger for the later phase of highway works under part ii) is re-worded and this is to be revised to:</p> <p>'....These works shall be carried out as approved and brought in use prior to completion of 10,000sq. m of development floorspace on the LDO, unless otherwise determined by the Local Planning Authority where appropriate circumstances apply, including but not limited to, if a high traffic generator is proposed within the LDO or if direct access to the A47 can be achieved'.</p>	
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Easton Parish Council

www.eastonparishcouncil.co.uk

Mr Rooke
Broadland District Council
Planning Department
Thorpe Lodge,
1 Yarmouth Road,
Norwich, NR7 0DU

30 September 2018

Dear Mr Rooke,

Re Planning Application 20181177 and Triggers for Scheme of works Under Condition 2.20 of the Local Development Order

Further to our telephone conversation of Friday and to avoid any doubt Easton Parish Council **objects** to the above planning application and the triggers for the scheme until such time as all the outstanding matters raised have been satisfactory answered.

The Government Planning Portal confirms that there are no national requirements for applications for approval of conditions **except that they should be in writing**. The application in this case appears to be an e-mail from James requesting partial discharge of condition 2.20. The e-mail advises that the drawings have been sent to NCC as the Highway Authority for section 278 agreement.

The wording of the 2.20 is clear and unequivocal in that it relates to the whole LDO scheme and this is what must be considered to fully discharge the condition. Partial discharge for an interim proposal up to the first trigger but does not discharge the full pre-commencement condition which therefore remains in place.

There is no authority within the LDO to support the recommendation of officers in the committee papers. The LDO is for 50,000m² of buildings and the proposal now limits this to 10,000m² with a pre-commencement condition on the remaining 40,000m².

We are extremely concerned that you do not consider that any road improvements are necessary prior to construction. It should be evident that the volumes of construction traffic required for the site infrastructure alone poses a safety risk as great as that after occupation.

We note that the agreement by HA to the interim solution is conditioned by the requirement for a detail design check and a Stage Safety Audit. This negates discharge of the condition 2.20 as a Safety Audit should be essential in compliance with the reasoning behind the condition in the LDO. This is not mentioned in the committee papers and It is assumed that though its recommendation for approval Broadland accepts full responsibility for all safety issues associated with the design for the interim solution by ignoring the recommendation of the HA for design checks and the submission of a safety audit.

The committee papers do not indicate whether the s278 Agreement has been signed and we suggest that this must be conditional to approval. We consider that this legal document should cover the full requirements of the completed LDO with any acceptable interim solution and necessary triggers with an appropriate full bond with release percentages based on the triggers.

Notwithstanding these procedural observations, we do not believe that we have been given an appropriate amount of time to consider the triggers in the context of this application. On analysing the document that was sent to us it was created on the 24/09/2018 at 08:49 amended at 14:54 with you named as the author and received on our email system at 15:04. You advised us we had until midday on the 1 October to respond. We provided you a provisional response to these matters on the 26th September but as yet have had no response to our concerns. Your deadline has given us only 4 full working days to consider this matter in more depth and to seek the necessary professional advice to take before the parish council. It should be noted as a parish council it is impossible to convene a public meeting to discuss these matters in such a short amount of time, to convene a meeting we must give 3 clear days to advertise the meeting not including the day the meeting notice is posted. We request a time extension to enable this matter to be considered by the full parish council.

It is our considered view that should an extension not be granted and the planning committee approve this application at its meeting on the 3rd October 2017 our legitimate expectation to have been given as a consultee a meaningful and full opportunity to respond in an informed manner has been breached. I refer you to *R v N E Devon HA ex p Coughlan* [2001] QB 213. At [108] and *R. v. Inland Revenue Commissioners, ex parte M.F.K. Underwriting Agents Ltd.*(1989) [1990] 1 W.L.R. 1545 at 1569–1570, High Court (Queen's Bench) (England & Wales)

Whilst you appear to accept that the partial discharge (phase 1) proposals are an interim solution suitable for limited occupation, we remain adamant that a full scheme should be implemented irrespective of levels of occupation as our previously reported concerns and unanswered questions, which are repeated below. (See also the joint letter dated 26th September 2018 from Marlingford and Colton and Easton)

1. The s106 agreement with the land owner restricts access to the LDO to a route from the Easton roundabout via Church Lane and Red Barn Lane. This submission restricts upgrading to Church Lane only. If it is the intention to restrict all access to the site to a single entry/egress position specifically not using Red Barn Lane, we suggest a revised S106 is required. Alternatively, should the developer wish to use another entrance either for construction purposes or an additional entrance, suitable upgrades must be considered for Red Barn Lane. The application 20181336 for the surface water lagoon and heavy engineering to the western boundary of the LDO site will add to the burden of HGVs using both Church Lane and Red Barn Lane, reinforcing the need for road improvements to the full length of the s106 route.
2. Consultation for the LDO was concerned that the s106 and road improvement should consider both construction and occupation with the timing of the various works under condition 2.20 covered by condition 2.21. We do not consider these two conditions can be dealt with separately.
3. Information provided within various submissions concerning these works suggests that the applicant considers the proposals are temporary in nature on the assumption that a permanent direct access from the A47 will replace this route. This is by no means certain and the section 278 works must be considered as the permanent permitted access solution to the LDO site. If and when definitive proposals and timescales for the A47 become certain, revisions and downgrades to these proposals may be considered appropriate as dictated by the agreed timing of the works under condition 2.21.
4. Of the six elements under condition 2.20, the first two, "Realignment/change of priority at the junction of Dereham Road/Church Lane" and "A right turn lane from Dereham Road into Church Lane" are alleged as not necessary at this time due to the modest traffic movements. The applicant does not evidence the reasoning or changes which underline this statement. The intention of condition 2.20 is for the design to reflect the full capacity and total traffic usage for the LDO site. Any phasing of the highway works to suit the occupation phasing is a matter for condition 2.21. It is understood that the reference to modest traffic movements relates to the proposal for a Milling Plant as the first occupant. This is irrelevant to condition 2.20 which should address full occupancy and site construction traffic, which is likely to be extensive from day one.
5. Element six, the closure of Blind Lane is alleged as not necessary at this time due to the uncertainty of the proposed A47 dualling works. Again this can only be considered if and when definitive proposals for the A47 and timescales become certain. In the interim the situation as assessed by NCC at the time of the LDO consultation remains.
6. What is the precedent for passing bays on a permitted HGV route? We consider that the precedent is for a 6.5m wide carriageway established under planning application 20050708 for the adopted length of Grange Lane in the access to Honingham Thorpe Farm. This historic application noted the

intention of this new road was a more direct access to the Easton roundabout (and A47) for farm traffic including caterpillar tractors, combined harvesters, sugar beet lorries and potato lorries, from Honingham Thorpe Farm. The LDO site will add to this volume of HGV traffic which is not given any consideration in this S278 design nor appears to have been considered in the original EIA Screening Opinion for the LDO.

7. A 1.5m wide trod is inadequate as the solution to pedestrian and cycling access to the site. The precedent of a 3m wide trod is established by South Norfolk in the details for the 890 homes at Easton. The proposed 1.5m width does not even allow for cyclists passing. The minimum width recommended by Sustrans Handbook for Cycle Friendly Design is 2.5m to allow cyclists to safely pass. With the shared pedestrian usage, we support South Norfolk in its requirement for 3m wide pathways.
8. The trod simply stops at the junction of the new site entrance and there are no details how pedestrian and cycle access within the development to individual plots is to be effected. The proposals are simply paying lip service to the provisions of the NCC Walking and Cycling Strategy which promotes encouraging people to walk and cycle under planning as its statement “New developments, both housing and employment, provide the opportunity to create attractive environments and to build in coherent, convenient and safe links for walking and cycling.”
9. Notwithstanding our concerns regarding the inadequacy of a series of passing bays, we do not consider shared use of these with cyclists and pedestrians using the trod to be acceptable. Cyclists and pedestrians must be kept separate from motor vehicles and HGVs.
10. Drainage to the passing bays is proposed by a SUDs system of soakaways. The drainage assessment for the LDO concluded that “the ground conditions are not suitable for infiltration drainage”. We query whether further checks have been carried out to establish different conditions on the road verges to those encountered on the LDO site which allows this solution.
11. The visibility splay east of the new entrance notes that for the majority of its 125m length the existing hedge will have to be removed and replanted. Please confirm that all necessary permits for changes of the highway boundary and consultations with South Norfolk have been agreed under the Hedgerow Regulations.
12. The visibility splays at the proposed entrance appears to be designed for vehicles exiting the site only but does not consider other traffic at the bend on the existing highway. The wide area of verge at the bend of a narrow rural road provides visibility for traffic, legally travelling at up to 60mph, to see vehicles approaching from the opposite direction. This principle is negated by 16.5m long articulated lorries exiting the site and obscuring these lines of sight. There are other issues which are particular to Easton village.
13. The proposals to cater for HGVs in the vicinity the Grade 1 Listed Church of St Peter are in conflict with ENP policies 1 and 4. The proposal (marked insert

A, drawing no CL-1010 Rev P3) indicates that a critical part of the existing screening will be removed and would potentially lead to degradation in the setting of the Church.

14. The issue of car parking at the church is set out in the letter of 23rd July 2018 is not considered in the submission. Should the current proposal be agreed it will make the area around the church dangerous for anyone trying to visit.
15. With regard to insert B drawing no CL-1010 Rev P3 which shows a pram crossing, given the proximity to the bend a more formal approach to crossing the road at this point needs to be constructed. We believe in the interests of safety for pedestrians who have difficulty crossing a road within a few seconds a better solution is required at this position where vehicles are still decelerating out of the 60mph zone.
16. Application 20181336 shows the site access with a footpath to one side which is not shown on application 20181177. Will this application be amended to allow pedestrian access to the site?
17. Does this application need to be reconsidered against the extra site traffic associated with the lagoon, which has been submitted as partial discharge of condition 2.27, along Red Barn Lane as the permitted route under the s106 Agreement?
18. Has the request from Marlingford and Colton Parish Council that the proposed exit from the site be restricted to left-turn only for HGV's been agreed?

Yours sincerely

Cllr Peter Milliken
Chair Easton Parish Council

Joint Letter from: Easton, Marlingford & Colton Parish Councils

Mr Rooke
Broadland District Council
Planning Department
Thorpe Lodge,
1 Yarmouth Road,
Norwich, NR7 0DU

26 September 2018

Dear Mr. Rooke,

Food Hub, Honingham: Planning Application ref 20181177 - Discharge of Condition and 2.21

We thank you for your e-mail dated 24th September 2018, informing us of the triggers under condition 2.21 for the works required under condition 2.20 and copies other correspondence related thereto. Your decision to allow consultation of this matter is appreciated.

It is noted that this application is included on the agenda for consideration by the Planning Committee on 3rd October 2018.

We are surprised that you consider that sufficient detail has been submitted for this scheme to be considered, let alone the recommendation for approval.

The letter from NCC as the Highway Authority dated 17th September 2018 confirms that the HA considers that the passing bays and pedestrian facilities (Parts III and IV) are appropriate as an interim measure. This interim solution (phase 1) is recommended for approval qualified with the introduction of a further subsequent condition for submission and agreement of the full scheme (phase 2). We fail to understand how an interim solution satisfies the requirement for agreement of the pre-commencement condition for the completed LDO.

If you and HA agree that an interim solution is acceptable, this should be covered under condition 2.21. Condition 2.20 must reflect what is required for the completed development.

Full discharge of pre-commencement conditions is an important consideration to ensure that the design is achievable within the confines of the location, constraints and legislation.

Contact details:

Julian Blackmore, Tel: 01603 881426 Email: julian.blackmore@btinternet.com

Peter Milliken, Tel: 01603 881035 Email: chair@eastonparishcouncil

The work is subject to an s278 Agreement and it is essential that the developer is committed though a bond for the full extent, accepting phasing triggers, at the outset allowing completion by HA against default. However unlikely, in the event of default the bond must be appropriate to ensure the cost of carrying out phase 2 is not at the expense of the taxpayer.

We are extremely concerned that you do not consider that any road improvements are necessary prior to construction. It should be evident that the volumes of construction traffic required for the site infrastructure alone poses a safety risk as great as that after occupation.

Your support of the inadequate proposals within 20181177 for condition 2.20 and the disregard under condition 2.21 for any measures during construction ignore the reason why these conditions were considered necessary in the LDO. In case you have forgotten, we reprint this as:

Reason – In the interests of highway safety, to safeguard residential amenity, to provide adequate protection to the natural environment and to ensure the satisfactory development of the site, having regard to the rural setting.

Without any improvement prior to start of the works, the HGV traffic required for the construction is contrary to this stated reason.

We note that the agreement to the interim solution of HA is conditioned by the requirement for a detail design check and a Stage Safety Audit. This negates discharge of the condition 2.20 as a Safety Audit should be essential in compliance with the reasoning behind the condition in the LDO. [Para. 5.6 of the Committee papers does not mention this condition]

We must assume that though its recommendation for approval Broadland accepts full responsibility for all safety issues associated with the design for the interim solution by ignoring the recommendation of the HA for design checks and the submission of a safety audit.

The request by Marlingford & Colton Parish Council for HGVs to be restricted to a left turn only when exiting the site is stated in the papers as not considered to be necessary, but without adequate consideration of residents' concerns nor any convincing explanation. It is noted that the Applicant anticipates and requires vehicles to be able to turn right to provide interconnection of the vehicles between the LDO and Honingham Thorpe Farm [Para 5.11]. This would then constitute access to the site which is prohibited by the s106 Agreement requiring access from the A47 Easton roundabout. The s106 permits the use of Red Barn Lane only to the extent that the site entrance can be situated off this road. The Applicant does not indicate the extent of traffic anticipated and whether this will be HGVs. We would accept to the use of HGVs on Red Barn Lane only if usage is fully defined and any

necessary upgrades to the road and introduction of pedestrian/cycle facilities considered as those for Church Lane.

Generally, we are pleased to note that the proposals under 20181177 are an interim solution and the 1.5m wide trod is for pedestrian use only. We look forward to seeing the solution for the completed LDO development.

However, there are technical questions raised in our letter dated 24th August 2018 which we feel should still be addressed for the interim proposals. These are: [Para numbering as letter 24.08.178]

9. The trod is proposed to one side only and stops at the junction of the new site entrance. There are no details how pedestrian access connects to the pavements on both sides of the estate road within the development.

10. Notwithstanding our concerns regarding the inadequacy of a series of passing bays, we do not consider shared use of these with pedestrians using the trod to be acceptable.

11. Drainage to the passing bays is proposed by a SUDs system of soakaways. The drainage assessment for the LDO concluded that “the ground conditions are not suitable for infiltration drainage”. We query whether further checks have been carried out to establish different conditions on the road verges to those encountered on the LDO site which allows this solution. [Para. 5.2 does not consider whether the ground conditions are suitable for soakaways]

13. The visibility splays at the proposed entrance appears to be designed for vehicles exiting the site only but does not consider other traffic at the bend on the existing highway. The wide area of verge at the bend of a narrow rural road provides visibility for traffic, legally travelling at up to 60mph, to see vehicles approaching from the opposite direction. This principle is negated by 16.5m long articulated lorries exiting the site and obscuring these lines of sight. (It is assumed this will be considered by the Safety Audit)

We beg to differ with your conclusion that the designs “are sensitive to the Grade 1 listed church and special regard has been had to the desirability of preserving the setting of the Grade 1 listed Church of St Peter”. [Para 5.10] A new specific to HGVs restricting access from the village use can hardly be described as “protect and enhance” as ENP1 & 4. The interim Priest in charge notes that traffic on the A47 has already had an impact on the medieval foundations which will be accentuated by more HGVs on the other side of the church. [Para. 2.8]

We are concerned that the measures detailed within ENP 12 & 13 have been ignored, these policies were written by the Leader of Broadland Council Cllr Shaun Vincent, with the over willing support of the residents of Easton, they were adopted in September 2017 through a referendum and subsequently adopted by South Norfolk Council.

Failure to take full notice of these policies brings into question the democratic will of the people and brings into question compliance with the Neighbourhood Planning Act 2017.

The following plans, documents and strategies support Policies 12 & 13:

National Planning Policy Framework,
Joint Core Strategy for Broadland, Norwich & South Norfolk (January 2014),
Development Management Policies Document (October 2015)
Site Specific Allocations and policies Document (October 2015)
South Norfolk Place Making Guide SPD (2012)
Easton Parish Plan (2005)
ENP Sustainability Appraisal Report (2016)

We contend that the requirements under policy 12.1 have not been met, the developer has not provided any indication of the amount of traffic to be generated during construction phase and its accumulative effect. Under ENP12.2 no formal assessment of the potential impact of this traffic has been undertaken. No measures have been forthcoming to mitigate any negative impacts to road safety, pedestrians, safe road crossings, cyclists and parking during the construction phase.

Policy 13 looks to ensure that development enhances and encourages the use of sustainable transport modes through the provision of footpaths, cycleways and public transport. As a parish council we appreciate that public transport may not be possible however both the provision of a footpath and a cycleway is achievable and in fact is a condition of the LDO.

Before any work commences on the LDO site or associated projects and in compliance with policy 12 & 13 a safe fully audited and compliant plan needs to be devised that caters for pedestrians, cyclists and motor vehicle users of Church Lane a derestricted country lane and can be shown to be fully deliverable at both trigger points.

There are practical considerations relating to highways which should be considered as part of the s278 Agreement as they are not covered in the poorly conceived LDO. Mud from the site being transported onto the public highway is a major safety hazard, particularly on such a narrow, speed derestricted country road.

The triggers do not even require the site entrance to be constructed before the work commences. All site traffic will be leaving a potentially muddy site straight onto the highway.

Although the contractor(s) will be responsible for cleaning the highway, control seems to have been left to enforcement rather than prevention by conditions such as wheel cleaning prior to exiting site.

Given the concerns raised we must reiterate our opposition to these proposals and request that you reconsider your recommendation in light of our comments. We look forward to receiving your urgent response in relation to these matters.

Yours sincerely

Cllr Julian Blackmore

Chair Marlingford and Colton Parish Council

Cllr Peter Milliken

Chair Easton Parish Council

IN THE HIGH COURT OF JUSTICE

CO/ 4517 /2018

QUEENS BENCH DIVISION

THE PLANNING COURT

IN AN APPLICATION FOR PERMISSION TO BRING A CLAIM FOR JUDICIAL REVIEW

BEETWEEN:

EASTON PARISH COUNCIL

Claimant

-and-

BROADLAND DISTRICT COUNCIL

Defendant

CONDIMENTUM LTD

Interested Party

JAMES ALSTON

Interested Party

STATEMENT OF FACTS AND GROUNDS

Essential reading:

The statement of Mr Milliken (page 400)

The Local Development Order (page 500)

Plans (510 & 510A)

Condimentum application (page 535)

Alston application (page 626)

Highways application (page 666)

Decisions (685-686C)

Specific passages from other documents referred to in this document

1. This is an application for an order quashing four decisions of the Defendant as set out in Section 3 of the Claim Form on the basis that the decisions were all, for various reason, unlawful. The first and fourth relate to the same application, in respect of which the first interested party ("Condimentum") is concerned. The second interested party,

James Alston (Mr Alston) is concerned with the second and third decisions. Unless otherwise stated page references are to the documents in the application bundle.

Factual Background

2. Mr Milliken, the Claimant's Chairman, sets out the background to the making of the Greater Norwich Food Enterprise Zone Local Development Order ("the LDO") in paragraphs 6-10 of his statement (400) and the documents produced (500-725).
3. In February 2015 DEFRA announced the proposed creation of Food Enterprise Zones ("FEZ"). The making of a Local development Order pursuant to sections 61A and 61C of the TCPA 1990 was seen as important for a FEZ to succeed. The Greater Norwich FEZ was designated in 2015.
4. A plan produced as part of the work leading to the creation of the LDO at 510 shows the general location of Easton, a village north-west of Norwich on the main A47. The LDO is in the centre of the plan, edged red and numbered 12. The population of Easton is due to increase by about 150% under the South Norfolk Local Plan. The Easton Neighbourhood Plan (511) addresses that and other issues affecting the future of the village.
5. Easton is within the area of South Norfolk District Council. The LDO and the planning applications which form the subject matter of this application relate to land immediately beyond its western boundary, in the civil parish of Honingham.
6. The LDO forms the backdrop to the current applications. It can be found at page 500. The Claimant was a statutory consultee for the purpose of the LDO process by virtue of being a parish adjacent to the LDO site. The Claimant, for reasons which are apparent from the matters referred to below, has been treated as a consultee for the purpose for these applications.

7. The present application concerns three planning applications which are all related to the LDO:
- (i) application number 20181294 (“the milling tower and silos”), submitted by Condimentum. Although the application was limited to those particular buildings because the tower and silo gantries exceed 10m in height and therefore not permitted by the LDO, they are an element of a larger proposal for a food processing plant to occupy the south-eastern part of the LDO site;
 - (ii) application number 20181336 (“the lagoon”), submitted by Mr Alston, and which also sought to discharge condition 2.25 of the LDO;
 - (iii) application number 20181177 (“traffic”). This relates to the consideration of the satisfaction of traffic condition 2.20 of the LDO.
8. An indicative plan is at 510A. The boundary between the Defendant and South Norfolk is the dotted black line. The Defendant is the local planning authority for the land to the west of the line. South Norfolk is the authority for the land to the east of the line. The boundaries of the current Broadland LDO are edged black. The area of the currently proposed food processing site including the milling tower and silos is hatched red. The lagoon site is edged green. Church Lane is marked yellow. An area of land within South Norfolk which has been identified as the site of a possible further LDO is hatched blue.
9. In essence an LDO grants planning permission for certain types of development within its area without the need for specific planning permission, but subject to stated conditions. It is likely that the conditions will be crucial in terms of attempting to reconcile the economic demands behind the FEZ and its impact on local communities and the environment, particularly in the circumstances here, where the LDO is in open countryside, on a low ridge, and so visible from local communities and buildings for example.

10. By clause 2.1, the LDO grants planning permission for development covering a wide variety of business activities with some connection with agriculture or other food activities, both arable and livestock related.
11. Any such development is permitted subject to certain conditions. Of particular relevance to one or more of the proposals with which this application is concerned are:
- (i) 2.4: total floor space is not to exceed 50,000 m³ GEA in the interests of highway safety and to ensure satisfactory development in the rural setting;
 - (ii) 2.20: prior to commencement of development¹, a scheme of highway works shall be agreed with the highways authority² and possibly Highways England, with triggers for their implementation;
 - (iii) 2.21: this condition effectively addresses the implementation of the 2.20 works;
 - (iv) 2.22: maximum building height, excluding chimneys, to be 10m;
 - (v) 2.25: a scheme for the disposal of foul and surface water to be agreed;
 - (vi) 2.26: a related condition dealing with the disposal of surface water from developments which takes place;
 - (vii) 2.27: landscaping

The milling tower and silos application: 20181294

12. The milling tower and silos application occupies the south-eastern part of the LDO area, hatched red on the plan at 510A. The application is at 535. It is not stamped but it appears to have been received on or about 6 August. The milling tower is 20m high with gantries and associated equipment which are 14.6m high, other buildings in the proposed development being at or about the LDO maximum height of 10m.

¹ Which can only mean, in the absence of provision to the contrary, before any development takes place within the area of the LDO.

² Norfolk County Council.

13. On 29 June 2018 Condimentum's agents had requested the Defendant to adopt a screening opinion as to whether or not the proposed development was an EIA development for the purpose of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, pursuant to the provisions of Regulation 6. The application identified the development site as extending to 1.66 hectares; the milling tower and silos were to the southern end of the site. It appears the Defendant did not adopt a screening opinion pursuant to Regulation 6 (6) and, rather than seeking to request the Secretary of State to make one pursuant to Regulations 6 (10) and 7, Condimentum withdrew the application and submitted the present application received by the Defendant on 6 August (535).
14. Whilst not of direct relevance to this application, the statement in the planning application that the site area was 896 sq. m was misleading. Furthermore, that approach was not actually adopted by the relevant parties- see e.g:
- The statements in Condimentum's environmental statement (546) at paragraphs 1.1.6, 1.1.9, 2.1.1³, 2.2
 - Part 3 of the Landscape and Visual Impact Assessment (577)
 - Paragraph 9.18 of the report to Committee (601).

It is artificial to separate those elements above 10m from the rest of the intended scheme. From a practical point of view they work, and would be perceived, as one- see e.g. the indicative model of the proposals (578) and the plans and drawings at 563-4 & 568.

The EIA Issue

15. "EIA Development" is defined for the purpose of the Town & Country Planning (Environmental Impact Assessment) Regulations 2017 as being development within Schedule 1 of the Regulations, or within Schedule 2 and likely to have significant effect on the environment.⁴

³ It is not clear why it had apparently reduced in size compared with the original screening request.

⁴ Regulation 2 (1), the interpretation regulation.

16. For the purpose of Schedule 2, the area of the works means the whole area occupied by the milling plant and its associated buildings etc, extending to 1.6 hectares, albeit that certain elements of the works, taken in isolation, might have had permission by virtue of the LDO.
17. Condimentum submitted an environmental statement with this application. The non-technical summary is at 546. The reasoning for doing so are set out in sections 1.1 and 1.2 of the Statement.
18. Whilst by Regulation 17 a person intending to submit an environmental statement may give prior notice of their intention to do so, there is no such obligation. This is expressly acknowledged in section 5 of the Environmental Impact Assessment section of the Planning Practice Guidance, to which weight should be given:

Can an Environmental Statement be submitted without a screening opinion?

An applicant may decide that an Environmental Impact Assessment will be required and submit an Environmental Statement with an application without having obtained a screening opinion. If an applicant expressly states they are submitting a statement which they refer to as an Environmental Statement, then, for the purposes of the 2017 Regulations, the application is classified as an Environmental Impact Assessment application and must be treated as such by the local planning authority.

If the applicant has not made it clear that the information submitted is intended to constitute an Environmental Statement, the local planning authority should contact the applicant to clarify the position. In case of doubt, the local planning authority should issue a screening opinion. If the local planning authority considers that they do not have sufficient information to adopt an opinion, having taken into account the information requirements in regulation 6(2) and (3) as appropriate, they should notify in writing the applicant of the points on which they require additional information. Where it is determined that an Environmental Impact Assessment is not required, the information provided by the applicant should still be taken into account in determining the application, if that information is material to the decision.

Paragraph: 026 Reference ID: 4-026-20170728

Revision date: 28 07 2017".

19. It is beyond doubt that the document submitted was an environmental statement as defined by Regulation 18 (3):

- It describes itself as one on its cover (546) and in the text at e.g. 1.1.1, and particularly 1.2 and 1.3. The non-technical summary is sufficient to demonstrate that it complies, or substantially complies, with the requirements for an environmental statement in Regulation 18 (3). Additional information was supplied in a landscape and visual impact assessment (571)
- It was explicitly acknowledged as such by the Defendant's officer, Mr Rooke in an e-mail to Mr Milliken on 13 September (page 545).
- It is stated to be one in paragraph 1.7 of the Committee Report (584).
- At 9.18 (601) in the Committee Report it is stated in terms that the application potentially fell within Schedule 2 of the Regulations. It is then stated that the development required assessment against the criteria in Schedule 3 and that such an assessment had been carried out and found not to be EIA development.

20. The officer's advice to the Committee was fundamentally flawed. In these circumstances screening plays no part in the process. Once the environmental statement was submitted the process set out in Regulation 4 was set irrevocably in train. Regulation 4 prescribes the process that must be undertaken for the purpose of an EIA. None of those steps, including those required by Regulations 19 or 26 were undertaken.

21. Regulation 3 provides that the LPA may not grant planning permission unless an EIA as defined in Regulation 4 has been carried out.

22. Accordingly it must ineluctably follow that the purported resolution (685) to delegate approval subject to no new issues being raised during the consultation period was flawed and should be quashed, and that the same is true of the purported grant of permission (686A).

Consultation

23. The Claimant accepts that in appropriate circumstances it is perfectly proper to delegate authority to approve an application for planning permission when the matters outstanding are of an administrative nature.
24. Here, the application was referred to the Defendant's Planning Committee at the request of the Head of Planning.
25. The application was within the site of the LDO. During the LDO process, the Claimant was accepted as a statutory consultee by virtue of Article 38 (3) (b) Town and Country Planning (Development Management Procedure) (England) Order 2015.
26. The Defendant treated the Claimant as a statutory consultee for the purpose of this application: see, for example, its receipt of correspondence from the Claimant, the report to committee (585) and the extensive reporting of the Claimant's response in the updating response (607).
27. The consultation for the purpose of Regulation 19 of the EIA Regulations expired on 13 October (545).
28. The Head of Planning having referred this application to the Committee, and the Committee being aware from the report to Committee that it was highly contentious, the Claimant had a legitimate expectation that all material submitted during the consultation period would be placed before the Committee and considered by its members as part of the decision making process. The public might well have chosen not to submit their representations prior to 3 October on the basis that they had until 13 October, during which time they could carry out further enquiries and draft more compelling representations.

29. Further or alternatively it was irrational, having been seized of the application, for the Committee to delegate the decision making function back to the Head of Planning when it had the information submitted during the earlier part of the consultation period but did not know, and had no means of knowing, what further information and representations might be submitted during the rest of the process.
30. Further, the resolution was defective and irrational in that it left it to the discretion of the Head of Planning whether further responses received did or did not raise new material issues during the consultation period. The Claimant is aware that at least one further detailed representation was made by a member of the public during that period. The Claimant, and that person for that matter, has no means of knowing what view the Head of Planning took of those representations, as they would have done had the Committee retained control.
31. There was no reason to take this course because of urgency: the Committee next met on 24 October, allowing ample time for further representations received up to 13 October to be reported to that meeting.
32. In those circumstances the decision to delegate authority to the Head of Planning and should be quashed. It must therefore follow that the subsequent decision by the Head of Planning to grant permission was similarly unlawful and should be quashed.

The lagoon application: 20181336

33. The lagoon application was originally submitted on 14 August 2018, under cover of a letter dated 19 January 2018 (sic). It was superseded by an amended application dated 11 September 2018, at 626. The Claimant is unaware of the full extent of the differences between the two. If the amended application is so different as to amount to a fresh application, both the certificate of ownership and declaration at 631 must be wrong. In those circumstances the application was inevitably invalid by virtue of section 327A TCPA 1990 and would have to be quashed. The Claimant reserves its position until further information is available.

34. It will be seen from the sketch plan at 510A and the application plan at 632 that it is outside the area of the LDO. The proposal is described (627) as “infiltration lagoon to serve Food Enterprise Park”. As such it is a freestanding application. It is stated in the report to Committee that it is intend to achieve the discharge of condition 2.25 of the LDO. Condition 2.25 is set out in full at the top of 640. The area of the site is said to be 20,136 sq. m (627). The volume of the lagoon, and thus the area of soil to be removed from it, is said to be 26,000 m³ (639) so that the average depth of the lagoon would be about 1.3m.
35. The relevant pages of the report to Committee and the updating report prior to the meeting are at page 639. The consultation period in respect of the application ended on 10 October.
36. On 3 October the Defendant’s Planning Committee resolved to approve the details submitted under condition 2.25 of the LDO and to delegate authority to the Head of Planning to approve the application subject to no new material issues being raised before the expiration of the consultation period and to the proposed conditions. To the best of the Claimant’s knowledge approval has not yet been given.

Disposal of soils

37. The report to Committee (paragraph 1.5 at 640) simply notes that the arisings will be spread across an adjoining field and the surplus dispersed elsewhere on the holding. However, the material removed from the location of the lagoon will be predominantly subsoil given its apparent depth. At paragraph of the report to Committee (650) concerns about the dispersal of the soil are noted and that further information had been requested and would be provided to the Committee. No such information was apparently provided, given the updating report was silent about the matter.
38. In the circumstances and given it was a matter which the Claimant and other consultees and those making representations had expressed concerned it was irrational of the Committee for authorise the Head of Planning to approve the application.

Compliance with the LDO condition

39. In the appraisal section of the Committee report at paragraph 9.2 (647) the requirement in LDO condition 2.25 that a strategic foul and surface water disposal scheme shall be submitted and approved prior to commencement of development on the LDO site is noted. It is then stated that has been done.
40. The report fails to state that a requirement of the submitted scheme is that shall include details of ownership and maintenance of both surface and foul water disposal. No information was given in the application or in the report to Committee as to the future maintenance of the lagoon and ancillary works. Nor are such details given in respect of foul water disposal. It is simply stated in paragraph 1.4 of the Committee report (640) that the Applicant intends to install a temporary private treatment plant until the developed floorspace exceeds 20,000 sq. m. Given the treated outfall from the plant is to pass into the lagoon and/or local groundwaters, this was a particularly significant omission.
41. Further, condition 2.25 cannot be discharged until a strategic foul water disposal scheme has been agreed with the appropriate bodies. There is no allowance within condition 2.25 for the provision of a temporary scheme until the developed floorspace exceeds 20,000 sq. m. Even if such an allowance can be implied into the condition it does not remove the obligation for a strategic scheme to be agreed. There was no suggestion in the material put before the Committee that such a scheme existed.
42. Nor was there evidence that the interim scheme for the disposal of foul water had been agreed in writing with the LLFA, Anglian Water and the EA as required by condition 2.25.
43. In any event there is no evidence of an application in writing to discharge the condition. The skeletal application at 626 cannot reasonably be construed as such an application.
44. For these reasons, condition 2.25 was not fulfilled and it was accordingly unlawful for the Planning Committee to resolve otherwise. That part of the decision at 685 should therefore be quashed.

Consultation

45. In relation to delegation of the decision to the Head of Planning to approve the application, the submissions made on behalf of the Claimant in relation to application 20181294 are repeated. The decision should therefore be likewise quashed.

The highways application: 20181177

46. The LDO imposed two related highway condition, 2.20 and 2.21 (506). There is a clear interrelationship between them.
47. The purported approval of the condition 2.20 of the LDO (685) was effectively triggered by an e-mail dated 15 July 2018 from Mr Alston (666). Four plans were included in the application. The general plan is at 667A (the other plans were to show details of certain features). It shows proposed works to Church Lane, almost entirely within the boundaries of the Claimant.
48. Condition 2.20 (506) lays down these requirements:
- (i) Prior to commencement of development a written scheme of works shall be submitted and agreed;
 - (ii) The scheme shall include six specified elements unless otherwise agreed in writing with the Defendant. That cannot as matter of construction mean that a partial scheme can be agreed until a certain level of development within the LDO site had been achieved. It can only mean that some of the specified elements may by agreement be deleted permanently. There is no suggestion that has occurred;
 - (iii) Triggers shall be identified for the implementation of the various elements of the scheme.

By condition 2.21 the elements of the agreed scheme shall be implemented in accordance with the triggers identified .

49. Accordingly development within any part of the LDO site cannot commence before a written scheme fully addressing the six specified elements (or deleting some of them) has been agreed. Nor can condition 2.20 be discharged until that has occurred. No such scheme has been submitted.
50. Accordingly, the Committee's resolution to approve the details of the scheme was unlawful.
51. Further, condition 2.20 contemplated the possibility that vehicular access might be achieved directly from the A47, presumably in connection with its upgrading. The report to Committee states explicitly at paragraph 1.2 (667F) that the routing of traffic along Church Road applies until vehicular access is provided from the A47. It is reasonable to suppose, given the strong representations from the Claimant and others during consultation about the use of Church Lane to access the LDO site, that the Committee gave that statement weight when taking their decision.
52. However, a quite different approach is stated in the e-mail at 666 and in the trigger document at 667E. On the basis of those documents, on which those promoting the LDO could reasonably say they relied, the LDO can be occupied up to its fullest extent and accessed permanently from Church Lane.
53. It is submitted that the information given to the Committee was so at variance with what was contained in the apparently agreed trigger document that its decision was taken under a significant misapprehension of fact. The Claimant had a legitimate expectation that the Committee would not take a decision under those conditions.

Consultation

54. The Claimant had a legitimate expectation that it should be consulted about the proposal. The Defendant was well aware since the LDO was proposed that the Claimant had serious concerns about the highways implications of the LDO, and in particular highway safety on Church Lane. The proposed works are within the Claimant's boundaries.

55. The Defendant was also aware from the Claimant's letters of 23 July (708) and 24 August (712) prior to the Committee meeting on 3 October of the Claimant's concerns regarding the specific proposals.
56. The Claimant did not receive the list of triggers (without the drawings in support) for the proposed works until the afternoon of 24 September. Given they were effectively in the same terms as the e-mail from Mr Alston on 13 July, it was wholly unreasonable not to submit them until more than two months later and then to require a response by midday on 1 October, given the technical nature of the proposals.
57. In the circumstances the Parish Council was denied its legitimate expectation that it should be properly and adequately consulted.

Conclusion

58. By reason of these facts and grounds it is respectfully submitted that the Claimant has a realistic prospect of success in demonstrating that the decisions complained of were unlawful. Accordingly it should be granted permission to seek a judicial review of those decisions.

ANDREW GORE

12 November 2018

Fenners Chambers
3 Madingley Road
Cambridge
andrew.gore@fennerschambers.com

Matthew Rooke

From: Ian Alston
Sent: 18 September 2018 11:49
To: Matthew Rooke
Subject: RE: Ref. 20181177 Highways condition 2.20 of the LDO

Dear Matthew

Thank you for contacting me

I write in James's absence to confirm that HTF and the FEP team understand and accept the terms set out in para 2.20 that illustrate the "trigger" for additional works to Church Lane will set in at 10,000 sq mtrs of built space on the LDO.

Please take this e mail as our written acceptance and agreement

Kind Regards
Ian Alston

Partner HTF
Director FEP

From: Matthew Rooke [<mailto:matthew.rooke@broadland.gov.uk>]
Sent: 18 September 2018 11:33
To: Ian Alston
Subject: Ref. 20181177 Highways condition 2.20 of the LDO

Ian

Following our conversation this morning I'm forwarding you the e-mail that I sent James yesterday in respect of the triggers for the highways works.

I'd grateful to receive your written acceptance of the proposed triggers for each element set out in condition 2.20 as detailed in my attached e-mail and the comments of the Highway Authority.

Regards

Matthew

Matthew Rooke
West Area Planning Manager
Broadland District Council

Tel: 01603 430571
matthew.rooke@broadland.gov.uk
www.broadland.gov.uk

Planning Application fees increased on Wednesday 17th January 2018. The new fees apply to all applications received on or after this date.

TRIGGERS FOR SCHEME OF WORKS UNDER CONDITION 2.20 OF THE LOCAL DEVELOPMENT ORDER.

- *Realignment/change of priority at the junction of Dereham Road/Church Lane (part I)*
- *A right turn lane from Dereham Road into Church Lane (part II)*
- *A scheme of widening improvements to Church Lane (part III)*
- *Vehicular access to the LDO site either off Church Lane/Red Barn Lane or directly from the A47 (part IV)*
- *Enhanced footway and cycle facilities to connect with Dereham Road (part V)*
- *The closure of Blind Lane (part VI)*

Phase 1

Part IV and the interim proposals for Parts III & V identified in submission ref: 20181177 to be brought into use prior to the first occupation of a development on the LDO site.

Phase 2

Parts I, II, VI and the full proposals for Parts III & V are to be brought into use upon the provision of 10,000 sq. m of development floorspace on the LDO site, unless otherwise agreed in writing by the local planning authority including but not limited to a high traffic generator being proposed within the LDO or if direct access to the A47 can be achieved.

ADDENDUM TO APPLICATION NO: [20181336](#) – INFILTRATION LAGOON TO SERVE FOOD ENTERPRISE PARK ON LAND WEST OF BLIND LANE, HONINGHAM

1 INTRODUCTION

1.1 On 3 October 2018 Planning Committee resolved to:

- “A) approve the detail submitted under condition 2.25 of the Local Development Order; and*
- B) delegate authority to the Head of Planning, in consultation with the Chairman and Vice-Chairman of the Planning Committee and the Portfolio Holder for Planning, to approve application 20181336 subject to no new material issues being raised before the expiration of the consultation period and subject to conditions”*

1.2 The wording of condition 2.25 can be seen at para 1.3 of the original committee report dated 3 October (attached as Appendix 1). In summary, it required a strategic foul and surface water disposal scheme to be submitted and agreed prior to development commencing at the Food Enterprise Park Local Development Order (LDO). This condition required details of ownership and maintenance of the drainage scheme and it was to be agreed by the Local Planning Authority in consultation with the Lead Local Flood Authority, Anglian Water and the Environment Agency.

1.3 On 14 November 2018, this Council received a copy of an application made by Easton Parish Council (EPC) to the High Court to bring a claim for Judicial Review (JR) which seeks to quash four decisions relating to the Food Enterprise Park and the proposed milling facility. One of the four decisions being challenged is the Planning Committee’s decision to approve the drainage scheme (see para 1.1 above). The main document in EPC’s submission: ‘Statement of grounds and facts’ is attached as Appendix 2 to the previous report.

1.4 In light of the legal challenge no decision was issued for application ref. no. 20181336. All the relevant papers have been reviewed with the Council’s legal representatives and as a result of this review the matter is being referred back to Planning Committee to enable Members to give further consideration to the proposal having regard to the points raised in EPC’s legal challenge.

2 SUMMARY OF KEY ISSUES RAISED IN EPC’S CLAIM FOR JR

2.1 The following paragraphs represent a summary of the key issues raised in EPC’s claim for JR insofar as they relate to application ref. no. 20181336.

The numbers in brackets represent the paragraph number in the appended 'Statement of grounds and facts'.

- 2.2 (33) EPC claims that the ownership certificate and declaration in the application forms submitted in September 2018 must be wrong. Furthermore, EPC suggests that if the application was amended so significantly as to amount to a different application then this would also make the ownership certificate and the declaration on the application forms incorrect.
- 2.3 (37&38) EPC states that the Planning Committee was advised that arisings from the excavation of the lagoon would be spread across an adjoining field and the surplus would be dispersed elsewhere on the holding. Concerns regarding the dispersal of soil were noted in the committee report but EPC claim that no further information was given to the committee. Therefore, EPC claim that it was irrational for committee to authorise the Head of Planning to approve the application when no further information had been presented regarding the concerns expressed.
- 2.4 (40) EPC claim that no details of the ownership and maintenance of the surface and foul water drainage scheme were included in the committee report.
- 2.5 (41) EPC claim that condition 2.25 requires a strategic foul water disposal scheme to be agreed and there is no allowance within condition 2.25 for a temporary scheme until the floor area exceeds 20,000sq metres. Even if such an allowance can be implied in the condition EPC claim that it does not remove the obligation to agree a strategic scheme. EPC claim that no such strategic scheme existed in the material presented to committee.
- 2.6 (42) EPC claim that there was no evidence that the interim scheme had been agreed in writing with Lead Local Flood Authority, Anglian Water and Environment Agency.
- 2.7 (43) EPC claim that the planning application ref. no. 20181336 for the lagoon cannot be construed to be a discharge of condition 2.25 and therefore there is no evidence of an application in writing to discharge the condition.

3 RESPONSE TO KEY ISSUES RAISED IN EPC's CLAIM FOR JR

- 3.1 The following paragraphs provide a response to the claims made by EPC in its legal submissions. For ease of reference the relevant paragraph in EPC's 'Statement of grounds and facts' is again in brackets.
- 3.2 (33) *ownership certificate*: The application forms received on 11 September 2018 state that "Alston" is the applicant and the ownership certificate incorporated within the application forms states that the applicant is the owner of the land. Clarification has been sought on this matter and the applicant has confirmed that Honingham Farms Limited is the registered owner of the site.

This is a company of Honingham Thorpe Farms partnership which is 50% owned by Ian Alston and 50% owned CA Alston settlement Trust of which James Alston is the main beneficiary. Therefore, it is accepted that the application forms and ownership certificate are neither misleading nor incorrect.

- 3.3 With regard to the amendments to the application, amended plans were received on 11 September. These can be seen on the Council's website but officers can confirm that the amendment primarily extended the red line the width of Blind lane. This was a minor change and did not amount to a new proposal.
- 3.4 (37&38) *soil/arising from the lagoon*: The Supplementary Schedule considered by Planning Committee on 3 October 2018 stated: "*The applicant has confirmed that all soil arising from the excavation of the lagoon would be spread across their agricultural holding without the need for vehicles to enter the County roads*". In a letter dated 19 September the respective Chairmen of Honingham, Marlingford & Colton and Easton Parish Councils asked whether the necessary permits had been obtained to spread the soil over existing agricultural land and the site area of the land to be used.
- 3.5 Since the above claim was submitted, the applicant has now provided a plan showing the field on which the soil will be spread. For the avoidance of doubt, the QC advising the Council has confirmed that the spreading of soil associated with the lagoon does not need any further permission under the planning regime on the grounds that it is not polluted or contaminated (see: R (Birch) v Barnsley MBC [2010] EWCA Civ 1180) and the Council is not aware of any further permit required for this activity. However, Members are also advised that even if a permit was required under a different regulatory regime this would not be sufficient justification to withhold issuing a planning decision on the basis that the planning system should not duplicate controls exercised by other regimes.
- 3.6 (40) *ownership and maintenance*: As stated above, the site of the proposed lagoon is in the ownership of Honingham Farms Limited and the applicant has confirmed that there is no intention of changing ownership for the foreseeable future. With regard to maintenance of the drainage solution the applicant has confirmed that the treatment plant will be maintained by the contractor who installs the plant as part of the installation agreement. The swales, culverts and lagoon will be maintained by the landowner who will inspect these elements of the scheme on a 6monthly basis.
- 3.7 (41) *a strategic drainage scheme did not exist and was not agreed*: condition 2.25 requires a strategic foul and surface water disposal scheme to be agreed by the Local Planning Authority in consultation with other relevant bodies. By its very nature a 'strategic scheme' is a high level proposal and it does not imply or necessitate full details of the drainage scheme to be submitted.

- 3.8 The report to Planning Committee on 3 October summarised the applicant foul and surface water drainage proposals and stated: *“Details have been submitted to show the surface water drainage path which will drain via open swales naturally around the northern and western boundaries of the FEZ and connects to a culvert to be constructed under Blind Lane. The culvert continues to the west into the application site where it connects to an open swale that runs into the proposed lagoon. In respect of foul water disposal it is proposed to install a temporary private treatment plant within the FEZ, which will serve the first 20,000 sq. m of development floorspace. Once this threshold is reached a connection to the Anglian Water mains sewer will be provided and the treatment plant will be decommissioned, with the pipework and treatment plant removed. Treated outfall from the temporary private treatment plant within the FEZ is shown to be directed to the surface water drainage path and the lagoon.”* It is considered that the proposed connection to the Anglian Water mains sewer after 20,000sq. metres of floorspace has been constructed is a reasonable and legitimate ‘strategic scheme’ and there is nothing in condition 2.25 which requires details of how this connection will be secured and delivered. It is also considered reasonable to agree the interim drainage solution which has been detailed in application ref. no. 20181336 and is summarised above. Planning Committee is also advised that the reason for condition 2.25 is: *“to ensure the satisfactory development of the site and to provide adequate protection to sensitive receptors nearby notably the River Tud”*. It is considered that the details received to date, including the connection to the Anglian Water mains sewer after 20,000sq metres, will ensure the satisfactory development of the site and will ensure sensitive receptors are protected.
- 3.9 (42) *no evidence that the interim scheme had been agreed in writing with Lead Local Flood Authority, Anglian Water and Environment Agency*: all three bodies listed in EPC’s claim have accepted the scheme proposed in application ref. no. 20181336. For the avoidance of doubt their respective comments are attached at Appendix 3.
- 3.10 (43) *the application for the lagoon cannot be construed as a discharge of condition*. This claim is disputed on the grounds that condition 2.25 requires a strategic foul and surface water disposal scheme to be agreed by the Local Planning Authority in consultation with other relevant bodies. The applicant has submitted a scheme, the relevant bodies have accepted the scheme and, assuming the Local Planning Authority agrees the same scheme, there is no reason why condition 2.25 cannot be discharged.

4 ADDITIONAL REPRESENTATIONS RECEIVED SINCE 3 OCTOBER

- 4.1 In addition to the claim for a JR submitted to the High Court by EPC, the Council has received correspondence regarding application ref. no. 20181336 from other parties since the Planning Committee meeting on 3 October 2018. This correspondence is detailed in Appendix 4.

- 4.2 Many of the points raised in the correspondence received since 3 October are technical in nature and Members are reminded that the Lead Local Flood Authority, Anglian Water and the Environment Agency have raised no objections to the proposal. Furthermore, some of the concerns raised will be addressed through the control of other regulatory regimes. Notably the Environment Agency has confirmed: *“A Package Treatment Plant (PTP) is proposed as the means of foul drainage until a mains foul sewer connection is provided, and this PTP will then discharge to the lagoon. In assessing the permit application, we will consider the volume of effluent and the nature of the environment it is being discharged to, which in this case is a lagoon which infiltrates to groundwater. Providing that the PTP is capable of handling the proposed volume, this ought to be acceptable to us. In terms of groundwater protection, this will not be covered by the permit. We have reviewed the design of the infiltration lagoon as part of the planning application, and are satisfied that there is not an unacceptable risk to groundwater.”*
- 4.3 Members are also advised that a number of the points do not raise significant new and/or material issues to the determination of this application. As a consequence, it is not necessary to address every point raised in the appended correspondence.
- 4.4 However, one point made by Mr Robinson is that the lagoon should be considered as a change to the LDO and a modification to the Food Enterprise Park. Officers remain satisfied that the lagoon represents a piece of infrastructure which serves the LDO site. This is similar to the passing bays and highway works which are also infrastructure projects which serve the LDO site. It does not mean that the LDO has to be modified to incorporate these various infrastructure projects and nor does it preclude the Planning Committee determining these submissions.

5 CONCLUSIONS

- 5.1 Having regard to all the issues raised with regard to 20181336 in EPC's claim for JR and the other points raised in the correspondence received since 3 October 2018 and the responses contained within this addendum report, it is concluded that Planning Committee can justifiably approve the planning application in accordance with the recommendation in the attached committee report dated 3 October 2018.

Phil Courtier
Head of Planning

Background Papers

Planning application file 20181336.

For further information on this report call Phil Courtier 01603 430549 or email phil.courtier@broadland.gov.uk

AREA West
PARISH Honingham

2

APPLICATION NO: [20181336](#) **TG REF:** 611834 / 310324

LOCATION OF SITE Land west of Blind Lane, Honingham

DESCRIPTION OF DEVELOPMENT Infiltration lagoon to serve Food Enterprise Park

APPLICANT Honingham Thorpe Farm

AGENT Brown & Co

Date Received: 14 August 2018
8 Week Expiry Date: 10 October 2018

Reason at Committee: At the request of the Head of Planning on grounds that Broadland District Council has been involved in the preparation and submission of the details.

Recommendation (summary): Delegate authority to the Head of Planning to approve, subject to conditions once the arboricultural impact is satisfactorily resolved.

1 THE PROPOSAL

- 1.1 The application seeks full approval for a 26,000m³ infiltration lagoon and swale which connects via a culvert under Blind Lane to the east to accommodate the surface water arising from the adjacent Food Enterprise Zone (FEZ) which was granted under a Local Development Order (LDO) in 2017. The LDO was granted subject to conditions being met, and condition 2.25 of the Order sets out the details to be considered for a strategic foul and surface water disposal scheme and this application is seeking to comply with the requirements of condition 2.25 albeit incorporating an infiltration lagoon off-site from the FEZ.
- 1.2 As the proposals for the strategic foul and surface water disposal scheme for the FEZ are proposing an infiltration lagoon outside of the site granted by the Order, the lagoon and associated works outside of the FEZ require separate planning permission.

1.3 Condition 2.25 of the LDO states:

'Prior to the commencement of any development hereby permitted, a strategic foul and surface water disposal scheme shall be submitted and agreed in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority, Anglian Water and the Environment Agency. The agreed strategic foul and surface water disposal scheme shall include details of ownership and maintenance and shall be implemented prior to the first occupation of development. In the event that the strategic surface water drainage scheme is reliant upon discharge to the River Tud (or other sensitive receptor), a Water Framework Directive (WFD) assessment shall be required. The WFD assessment must adequately demonstrate that there will be no deterioration in status or quality of any sensitive receptor. The reason for the condition is to ensure the satisfactory development of the site and to provide adequate protection to sensitive receptors nearby notably the River Tud'.

1.4 Details have been submitted to show the surface water drainage path which will drain via open swales naturally around the northern and western boundaries of the FEZ and connects to a culvert to be constructed under Blind Lane. The culvert continues to the west into the application site where it connects to an open swale that runs into the proposed lagoon. In respect of foul water disposal it is proposed to install a temporary private treatment plant within the FEZ, which will serve the first 20,000 sq. m of development floorspace. Once this threshold is reached a connection to the Anglian Water mains sewer will be provided and the treatment plant will be decommissioned, with the pipework and treatment plant removed. Treated outfall from the temporary private treatment plant within the FEZ is shown to be directed to the surface water drainage path and the lagoon.

1.5 The applicant has confirmed that the soil arising from the excavation of the lagoon and the swale will be spread evenly across the field adjoining the lagoon and the surplus soil will be dispersed elsewhere across the applicant's agricultural holding.

2 KEY CONSIDERATIONS

- Whether the proposed development accords with the provisions of the development plan, the National Planning Policy Framework (NPPF) and Planning Practice Guidance.
- Whether the proposed development results in a significant detrimental impact upon the character and appearance of the surrounding area, drainage, highway issues, residential amenity, trees, archaeology and ecology and biodiversity.

- Whether the details submitted are acceptable to allow condition 2.25 of the LDO to be approved.

3 CONSULTATIONS (in summarised form)

3.1 Honingham Parish Council:

Object to the application on a number of concerns:

- (1) There is a lack of evidence confirming whether effluent will or will not be discharged into the lagoon and what this effluent may consist of. We are concerned about both the possible nature of this effluent and the volume. We consider the potential risk of flooding of the lagoon to be very high and subsequently the possibility of the effluent entering the River Tud a major concern. Having considerable knowledge of the local area and experience of a variety of flooding incidences locally we feel that the real risk of flooding and pollution of the surrounding river basin has not properly been assessed.
- (2) Should flooding of the lagoon occur the water would enter the River Tud and flow towards and through Honingham. The village is already subject to regular flooding from run off from the A47 as the centre of the village sits at one of the lowest points of the river basin. A number of properties in Honingham are situated right next to the River Tud and are at risk of flooding, especially since the river is no longer managed and maintained by authorities. We seek further evidence and reassurance that the construction and specifications of the lagoon are fit for purpose and that there is no risk of flooding occurring.
- (3) We have a number of parishioners living in very close proximity to the proposed lagoon who source their water from boreholes and are not on mains water. Should any effluent be discharged into the lagoon this could cause contamination to the ground water and subsequently affect these boreholes. This does not appear to have been taken into consideration in any part of the planning application.
- (4) We have been presented with data suggesting that up to 70,000 square yards of soil will need to be extracted to create the lagoon. Subsequently the haulage required to remove this soil would be considerable. Where would this extracted soil go and what evidence is there regarding the potential pollution which could be incurred in the transport of this soil and its potential impact of the local environment?

Honingham Parish Council do not believe that the planning application for the lagoon has taken into account the wider impacts of the lagoon on the parish of Honingham.

3.2 Marlingford & Colton Parish Council:

Should permission be granted request that the exit from the food hub should be left turn only.

Officer comment: These comments relate to refs: 20181177 & 20181294 and do not affect the lagoon application.

3.3 Joint comments of Easton, Honingham, Marlingford & Colton Parish Councils:

Attached as Appendix A.

3.4 Norfolk County Council – Highway Authority:

No objection subject to the imposition of a condition in respect of the details of the culvert required across Blind Lane as part of the off-site surface water drainage system.

3.5 Norfolk County Council – Lead Local Flood Authority (LLFA):

Original submission:

The applicant has submitted the same documentation as for application 20170052 (our ref: FWP/18/5/6588). As such the LLFA is providing the same response. As stated in the Enterprise Zone application, we are happy with the proposals, but would wish to reiterate that an option B could still be to discharge under the A47 via the HE culvert into the River Tud following Environment Agency (EA) guidance as set out below.

A Pre-app. enquiry for this site was received in March 2016 and information was provided by the LLFA regarding the consideration of SuDS hierarchy to demonstrate that at least one feasible proposal for the disposal of surface water is demonstrated. Following this we recommended that a drainage strategy be agreed and subsequently conditions be placed to confirm the detailed design of the drainage. It was also discussed that it should be determined that individual plots can drain their own area independent of other plots (eg not relying on strategic drainage of the site). This may be difficult if ground conditions are unfavourable for infiltration and / or if the aspect of the site favours one plot over another (eg if large areas of land drain towards one or two individual plots making investment in drainage more costly for them than other plots). Also it would probably determine where on the site infiltration tests are carried out (to ensure that each plot can use infiltration as a means of discharge).

Subsequent meetings were held with the LPA and the EA and documents were submitted based on these discussions with some issues being

incorporated as conditions. Some concern was raised after this consultation regarding the impact on the River Tud if discharge into this watercourse was proposed. After further consultation regarding a revised layout and the possibility of infiltrating off site, a further meeting between the LPA and the LLFA was arranged regarding moving the scheme forward. Dialogue with the Highways England (HE) and EA was undertaken to determine the existence of any culverts under the A47 which could be used to connect the site with the river Tud. A draft addendum letter report has now been received addressing our previous concerns raised in the last consultation, including a revised layout plan, revised calculations and a water quality assessment. Having spoken to the consultant regarding the calculations we are happy with the sizing of the infiltration basin to be able to store the post development run-off plus the undeveloped greenfield run-off volume from the open space (field) up gradient of the basin. We are now in general agreement with the proposals.

However we would draw the applicant's attention to the fact the discharge via culverts under the A47 into the River Tud should not be discounted as an option. It is noted that the natural drainage for the majority of the site is to the River Tud tributary and not to the catchment with the infiltration lagoon. The EA have provided advice that discharge to the River Tud via a tributary may be possible if a WFD (water framework directive) impact assessment were carried out and mitigation measures identified. This would require a demonstration that the discharge would not cause a deterioration in waterbody's WFD classification status and that it does not hamper the aims and objectives contained in the RBMP, where possible supporting them. When considering surface water run-off managed through SuDS, the worst case land use of the business park can be considered and the likely mitigation required for this through the provision of SuDS components (as per the SuDS Manual 2015). An additional level of mitigation is likely to be required to account for the sensitivity of the receiving waterbody as 'protected water'. Descriptions of each, the receiving water body, its WFD status, the hazard of pollutants likely to arise from the land use and the mitigation that can be provided by the SuDS could be undertaken with a submission. Chapter 26 of The SuDS manual has relevant information on how to consider the above.

We have also contacted HE to try to ascertain if they are aware of a culvert at the location you mentioned. We have not had any confirmation as yet. We welcome that Sustainable Drainage Systems (SuDS) have been proposed for the project where permanent above ground infrastructure is proposed to mitigate against additional impermeable surfaces creating an additional risk of flooding. Norfolk County Council appreciates that these are initial drainage proposals, however ideally the matters above should be clarified prior to detailed design, to ensure that the site has a deliverable surface water drainage strategy.

We have no objection subject to the conditions set out in the LDO being attached to any consent if this application is approved. We recognise that the

Local Planning Authority is the determining authority, however to assist, we suggest the following wording:

Further clarification:

LLFA confirmed that there was no further suggested wording but reference to the conditions laid out in the LDO was required.

Revised submission:

The revised details do not affect the drainage strategy for this site; our previous comments therefore still stand.

3.6 Norfolk County Council – Minerals & Waste Team:

No comment received.

3.7 County Council – Historic Environment Service:

The proposed infiltration lagoon and conveyance swale lie in an area already archaeologically evaluated through geophysical survey and targeted trenching. The evaluation identified, within the proposed development, a ring ditch relating to a prehistoric round barrow, another possible Roman funerary monument (perhaps another barrow) and field boundaries. Consequently there is potential that further heritage assets with archaeological interest (buried archaeological remains) will be present at the site and that their significance will be adversely affected by the proposed development.

If planning permission is granted, we therefore ask that this be subject to a programme of archaeological mitigatory work in accordance with National Planning Policy Framework (2018) paragraphs 188 and 199. We suggest that a detailed pre-commencement condition is imposed.

In this case the programme of archaeological mitigatory work will consist of an archaeological excavation. A brief for the archaeological work can be obtained from Norfolk County Council Historic Environment Service.

District Council Consultees:

3.8 Conservation Officer (Arboriculture & Landscape):

- I can find no tree survey details to check the constraints to the development site, although looking at the aerial photographs the proposed lagoon, swale and culverts are located adjacent to the field boundary trees and hedgerows, with a newly established wooded belt on

the west boundary. An AIA should be provided to ensure the existing trees and hedges are considered and that the required protection and construction methods are implemented.

- To ensure the existing trees and hedges remain undamaged the construction requiring excavation to implement the surface water drainage strategy; should be located outside of the root protection areas (RPAs).
- The scheme may require minor amendments to the layout once the tree constraints are applied and the Tree Constraints Plan (TCP) should be used to inform the design.
- I have no objections to the proposals if the scheme is designed so that it has a natural appearance and complements the existing landscape and the existing trees remain undamaged.
- The scheme presents the opportunity to improve both the landscaping and wildlife habitat within the site and it should be ensured this aim is achieved.
- Drawing No. C-100 P1, Section A-A details the cross section of the lagoon and has annotations representing areas of potential shrub and plant establishment; at this time no specific details of the accompanying landscaping scheme have been provided to comment on.

3.9 Environmental Health Officer:

Concerned that it is proposed to use the surface water scheme to dispose of 'foul water'. The applicant should provide evidence to show that septicity and subsequent odour will not arise before planning permission is granted for this type of discharge. I would hope that the applicant is able to secure a connection to the Anglian Water sewer.

3.10 Pollution Control Officer:

No comment.

Others:

3.11 Norfolk Wildlife Trust:

The infiltration lagoon has been designed to ensure no run-off of surface water to the River Tud via drainage ditches and that this would only occur during exceptional flood events. In this context we wish to draw the attention of the planning authority to the fact that a large part of the River Tud was

designated as a County Wildlife Site, as was Church Meadow, Alder Carr, Three Corner Thicket and Nursery Plantation in 2018. This information was sent to Broadland District Council in June 2018. The River Tud, in particular is sensitive to any flooding that may contain pollutants from run-off. As a result when considering whether the risk to the run-off reaching the River Tud is likely to occur, the ecological sensitivity of the CWS should be taken into account.

3.12 Highways England:

No objection.

3.13 Anglian Water:

To be reported.

3.14 Environment Agency:

To be reported.

4 PUBLICITY

4.1 Site Notice:

Expired: 14 September 2018

4.2 Neighbour Notification:

Red Barn and Red Barn Cottage, Blind Lane, Honingham

Expiry date: 12 September 2018

5 REPRESENTATIONS

5.1 Red Barn Cottage, Blind Lane, Honingham:

Object, very concerned about what is being proposed here; the lagoon will hold and allow to drain away the surface water from the food hub. No one knows what will be included in this water because no one knows what processes will be carried out on site. The water will obviously be contaminated by whatever is spilt or lying around the site with the amount of vehicle use, contamination by petrol, oil and diesel is to be expected. My home is near to the proposed lagoon and our water supply is from a bore hole. In addition I'm horrified to see that FOUL WATER SEWERAGE is to be

discharged into this lagoon, so will be an open cesspit for the proposed hundreds of workers / visitors to the site. The location, close to my home will not only cause a problem with smell it will more importantly contaminate our water supply. Our house is not shown on many of the submitted plans! We were led to believe that the food hub would have a mains water supply and be connected to the main sewer and there would be nothing to affect our water supply.

5.2 Red Barn Cottage, Blind Lane, Honingham:

Object, I have very serious concerns on this proposal; my domestic water supply is from a bore. There is no mains water supply nearby for us to connect to. Our property has conveniently been left off the maps and drawings. I fear that our water supply will be contaminated by this infiltration lagoon, especially as foul discharge is possibly going to be allowed into the lagoon, albeit allegedly on a temporary basis. How long is temporary and our water supply will be contaminated. Please do not allow this planning permission. As Broadland residents we have a right to a clean and safe water supply.

5.3 Norfolk Chamber of Commerce:

We strongly believe that the Food Enterprise Park is essential to the region's food sector to facilitate growth and add value. Our region is already world-leading with innovations in crop sciences and agri-tech. The Food Enterprise Park will help build upon these important innovations; create further jobs; and aid in securing Norfolk's place at the forefront of the food sector. We would like approval of the LDO conditions to pave the way for not only Condimentum but others that will further stimulate growth in both the region and the sector. Norfolk Chamber's key driver is to support our members and the business community as a whole to deliver high value jobs and economic growth. We feel that the current prolonged delivery journey of this project has hindered growth within a key sector that is significant to Norfolk. Therefore we would recommend that the project receive the support it needs to become a reality of both jobs and economic growth for Norfolk.

5.4 Additional letters of support supplied by the applicant from:

Frontier, Agrovista UK, Food & Drink Forum, the AF group and British Beet Research Organisation.

6 RELEVANT POLICY GUIDANCE

National Planning Policy Framework (NPPF) 2018 and Planning Practice Guidance (PPG) 2014 web based guidance:

- 6.1 Sets out the overarching planning policies on the delivery of sustainable development for rural communities through the planning system. It also reinforces the position that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Joint Core Strategy for Broadland, Norwich and South Norfolk 2011 as amended (2014) – (JCS):

- 6.2 Policy 1: Addressing climate change and protecting environmental assets

Amongst other items, set out that the environmental assets of the area will be protected, maintained, restored and enhanced.

- 6.3 Policy 2: Promoting good design

All development will be designed to the highest possible standards, creating a strong sense of place. In particular, development proposals will respect local distinctiveness.

- 6.4 Policy 17: Smaller rural communities and the countryside

Farm diversification, home working, small-scale and medium -scale commercial enterprises where a rural location can be justified, including limited leisure and tourism facilities to maintain and enhance the rural economy will also be acceptable. Other development, including the replacement of existing buildings, will be permitted where it can be clearly demonstrated to further the objectives of the JCS.

Broadland Development Management DPD 2015 – (DM DPD):

- 6.5 Policy GC1: Presumption in favour of sustainable development

When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

- 6.6 Policy GC2: Location of new development

New development will be accommodated within settlement limits defined on the proposals map. Outside of these limits, development which does not result in any significant adverse impact will be permitted where it accords with a specific allocation and / or policy of the development plan.

6.7 Policy GC4: Design

Development will be expected to achieve a high standard of design and avoid any significant detrimental impact.

6.8 Policy EN1: Biodiversity and habitats

Development proposals will be expected to protect and enhance the biodiversity of the district, avoid fragmentation of habitats and support the delivery of a co-ordinated green infrastructure network.

6.9 Policy EN2: Landscape

In order to protect the character of the area, development proposals should have regard to the Landscape Character Assessment SPD.

6.10 Policy CSU5: Surface water drainage

Amongst other things, mitigation measures to deal with surface water arising from development proposals should be incorporated to minimise the risk of flooding on the development site without increasing flood risk elsewhere.

Site Allocations DPD – (SA DPD):

6.11 The site is not allocated.

Landscape Character Assessment SPD:

6.12 Identifies the application site as falling within the Weston Green Tributary Farmland.

7 LOCATION AND DESCRIPTION OF SITE

7.1 The site itself is part of an agricultural field, currently used for arable purposes. The southern field boundary is marked by a combination of hedgerows and native trees. The eastern boundary to Blind Lane and the western field boundary are formed by hedgerows. The site levels fall from north east to south west.

7.2 The application site is to the west of the LDO site and the nearest residential property, Red Barn Cottage is approximately 430m to the south east of the proposed lagoon and 210m from the swale.

8 PLANNING HISTORY

- 8.1 [20151436](#): Screening Opinion – Farm based Anaerobic Digestion Plant. EIA not required 22 September 2015.
- 8.2 [20151560](#): Anaerobic Digestion Plant consisting of 1 no: Digester and 2 no: CHP units (Agricultural notification). Does not comply 20 October 2015.
- 8.3 [20170052](#): Local Development Order. Approved October 2017.

9 APPRAISAL

- 9.1 The main issues to be taken into consideration in the determination of this application and the submission of condition 2.25 of the LDO are the reasons for the submission of the application, an assessment of the proposal against the policies of the development plan, the NPPF and Planning Practice Guidance. Whether the proposed development will result in a significant detrimental impact upon the character and appearance of the surrounding area, drainage issues, highways issues, residential amenity, trees, archaeology and biodiversity.
- 9.2 Firstly it is appropriate to identify that condition 2.25 of the LDO requires that a strategic foul and surface water disposal scheme is submitted and approved prior to commencement of the LDO site. The applicant has submitted these proposals as a result of that requirement. The reason that the applicant has proposed the infiltration lagoon on a site outside of the FEZ, on land within their ownership, is to allow commercial development to take place across the whole of the FEZ, as an on-site infiltration lagoon would significantly reduce the developable area. As a consequence full planning permission is required as the off-site location for the lagoon does not benefit from the LDO consent. The LDO legislation does not require that local consultation on the details of conditions is undertaken. In this case as the surface water drainage proposals and the temporary outfall from the foul water proposals from the LDO site are proposed to drain into the infiltration lagoon details have been submitted to allow condition 2.25 of the LDO to be approved alongside the planning application and the determination of this application includes both these elements.

Policy Framework

- 9.3 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This point is reinforced by the NPPF, which is a material consideration as is the Planning Practice Guidance. The parts of the development plan that are relevant to this application are the JCS, DM DPD and the Landscape Character Assessment SPD.

- 9.4 Policy GC2 of the DM DPD states that new development will be accommodated within defined settlement limits. Outside of these limits, development that does not result in any significant adverse impact will be permitted where it accords with a specific allocation and / or policy of the development plan. The site has not been allocated for any purpose and is outside any defined settlement limit.
- 9.5 Policy CSU5 of the DM DPD is concerned with surface water drainage proposals and states 'mitigation measures to deal with surface water arising from development proposals should be incorporated to minimise the risk of flooding on the development site without increasing flood risk elsewhere' and includes criteria to be met. The proposed infiltration lagoon and the connection to the FEZ is considered to comply with the requirements of Policy CSU5, the details are considered at paragraph 9.8 below. Policy 17 of the JCS allows development in the countryside where it can be clearly demonstrated to further the objectives of the JCS. It is considered that the development of the LDO site furthers the economic objectives of the JCS.
- 9.6 The requirements of Policies GC4 (Design), EN1 (Biodiversity and habitats) and EN2 (Landscape) of the DM DPD require assessment and each is assessed in the relevant site specific matters below.

Site Specific Matters

- 9.7 In considering the character and appearance of the surrounding area, the site itself is part of an agricultural field, currently used for arable purposes. The southern field boundary is marked by a combination of well-established hedgerows and native mature trees. The eastern boundary to Blind Lane is formed by hedgerows and trees and the western field boundary is a newly established tree belt. The site levels fall from the north and north east towards the position of the lagoon. The proposed lagoon and swale will not be clearly visible from outside of the site and therefore it is considered that the proposals pay adequate regard to the environment, character and appearance of the area and meet bullet point i) of Policy GC4 and the requirements of Policy EN2 of the DM DPD.
- 9.8 In turning to the drainage issues concerning both the proposed infiltration lagoon and the works to comply with condition 2.25 of the LDO. The comments of the Lead Local Flood Authority (LLFA) are set out in paragraph 3.5 above. In summary the LLFA have no objection to these proposals subject to compliance with the LDO drainage conditions but they also refer to a second option which would be to discharge under the A47 via the Highways England culvert into the River Tud following Environment Agency guidance. This option is not being pursued. Based on these comments it is considered that the proposals represent an acceptable drainage solution.

- 9.9 In terms of the highways considerations the proposals do not necessitate the formation of a vehicular access onto the highway either during the period that the swale and lagoon are excavated or once it is in use, as access can be achieved across the applicant's substantial agricultural holding. The proposals identify that it will be necessary to form a culvert under Blind Lane to allow the drainage runs from the adjacent LDO site to the east to connect to the swale and lagoon to the west. The Highway Authority has no objection to the principle of a culvert being formed under Blind Lane and has requested the imposition of a condition to require the details of the construction of the culvert be submitted and approved. It is suggested that this condition be imposed.
- 9.10 Turning to issues of residential amenity bullet point iv) of Policy GC4 of the DM DPD requires that development proposals pay adequate regard to the impact upon the amenity of existing properties. It is noted that an objection has been received from the neighbouring property at Red Barn Cottage which is located 430m to the south east of the lagoon and 210m from the swale. The objection is on grounds of the potential effect of foul water or surface water contaminated by petrol, oil or diesel entering the lagoon and the serious impact this would have on ground water in the area as the water supply to Red Barn Cottage is from a borehole. The applicant's consultants have confirmed that the original reference in the planning submission to 'temporary foul discharge to the infiltration lagoon' is actually the clean, treated outfall from the private treatment plant on the LDO site, which is safe to enter into the surface water drains and groundwater. These details have been sent to the Parish Council and the neighbour and no further comments in this respect have been received. In addition, separate consent for the formation of the lagoon and the private treatment plant are required from the Environment Agency who will need to be satisfied that the ground water will not be contaminated by these proposals before they issue a licence and Anglian Water in terms of the connections to the main sewer.
- 9.11 It is noted that the District's Conservation officer (Arboriculture and Landscape) has requested that further details are submitted in respect of tree protection measures and landscape works as the excavation to form the swale and the lagoon are in proximity to the roots of trees and hedgerows along the southern field boundary. These details have been requested and are awaited, and a suitably worded condition/s will be imposed.
- 9.12 Archaeological interests on-site have been assessed in the past as part of the previous proposals for an anaerobic digester on this site (ref: 20151560, which was a prior notification application which was not approved). The Historic Environment Service confirmed that an archaeological evaluation through geophysical survey and targeted trenching has previously been undertaken. The evaluation identified, within the area of the proposed lagoon and swale, a ring ditch relating to a prehistoric round barrow, another possible Roman funerary monument (perhaps another barrow) and field boundaries. Consequently there is potential that further heritage assets with

archaeological interest (buried archaeological remains) will be present at the site and that their significance will be adversely affected by the proposed development. They request that a detailed condition is imposed to require a programme of archaeological mitigatory work. It is suggested that the condition is imposed as requested.

- 9.13 In turning to issues of ecology and biodiversity the application site itself does not have any special conservation designations, however Norfolk Wildlife Trust has identified that a large part of the River Tud is designated as a County Wildlife Site (CWS), as is Church Meadow, Alder Carr, Three Corner Thicket and Nursery Plantation. The full comments are set out at paragraph 3.11 above and their concern is that although the lagoon has been designed to ensure no run-off of surface water to the River Tud, this could occur during exceptional flood events and any flooding may contain pollutants from run-off and the ecological sensitivity of the CWS should be taken into account. The River Tud is located some 600m to the north of the application site beyond the A47, the site survey submitted with the application shows that the site levels rise across the field from the lagoon to the north and north west therefore it is considered to be very unlikely that flood water from the lagoon would enter the River Tud. It is therefore considered that the proposal meets the requirements of Policy EN1 of the DM DPD.
- 9.14 It is noted that concern has been expressed about the proposals for the disposal of soil/material that is excavated to form the lagoon and the swale and whether this will be transported along the local highway network. The applicant has stated that it is their intention to spread the excavated soil across the field that adjoins the lagoon and that any surplus soil will be dispersed within the applicant's agricultural holding. Details in this respect have been requested and any update will be reported to Committee.
- 9.15 The proposed infiltration lagoon and swale has been screened by the local planning authority against the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The proposal is not classed as a Schedule 1 development under the Regulations but is considered to fall within Category 10 (b) of Schedule 2 as it is an infrastructure (urban development) project the threshold of which is 1 hectare of development or the overall area of the development exceeds 5 hectares. Consequently consideration must be given to Schedule 3 and the specific impacts of this development to determine whether the development requires an Environmental Impact Assessment. The project has been assessed in terms of the relevant criteria in Schedule 3 which include: the characteristics of the development (including its size and design, cumulative impact, use of natural resources, production of waste, pollution and nuisance, risk of accident and human health); the location of the development (including the existing and proposed land uses, natural resources and absorption capacity of the natural environment); and the types and characteristics of the potential impact (including magnitude and spatial extent, nature, intensity, probability, duration, the cumulation with the impact of other development and the possibility of reducing the impact. With regard to

these criteria it is not considered that the development would have significant effects on the environment and it is concluded that an Environmental Impact Assessment is not required.

Planning Balance

- 9.16 The planning balance should consider whether the benefits associated with the proposed development outweighs the harm. In this case the benefits of the proposal are that it will provide a sustainable drainage solution for the surface water arising from the FEZ and will allow it to be developed, which is a significant economic benefit which will allow the generation of employment, business growth and associated revenue. Furthermore the lagoon and swale are in a location which does not have any landscape or visual impact. From the consultation replies the harm is the potential drainage issues, the impact on trees, archaeology and biodiversity. It is considered that as the drainage elements have been considered by the LLFA who has raised no objection then the drainage will not harm the environment, at this stage the tree issue remains to be concluded and Committee will be updated on this issue. A condition is to be imposed in respect of archaeology and the effect of the proposals on the biodiversity of the CWS has been assessed but it is not considered that it will be adversely affected.
- 9.17 It is noted that with the exception of the tree protection implications, the proposed formation of the lagoon and swales to serve the Food Enterprise Zone and the details for the drainage condition 2.25 of the LDO are considered to be acceptable. As further consideration of the tree protection measures are required it is recommended that delegated authority is granted to the Head of Planning to approve the application as per the specified conditions once the tree protection measures have been satisfactorily resolved.

RECOMMENDATION: Delegate authority to the Head of Planning to **APPROVE** the application subject to conditions, once the arboricultural impact is satisfactorily resolved and approve the details of condition 2.25 of the Local Development Order:

Conditions:

- (1) The development to which this permission relates must be begun not later than **THREE** years beginning with the date on which this permission is granted.
- (2) The development hereby permitted shall not be carried out otherwise than in accordance with the plans and documents listed below.

- (3) No work shall commence on site until details of the culvert required across Blind Lane for the off-site surface water drainage system have been submitted and approved in writing by the Local Planning Authority and has been constructed to the approved specification.
- (4) (A) No development shall take place until an archaeological written scheme of investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and (1) The programme and methodology of site investigation and recording, (2) The programme for post investigation assessment, (3) Provision to be made for analysis of the site investigation and recording, (4) Provision to be made for publication and dissemination of the analysis and records of the site investigation, (5) Provision to be made for archive deposition of the analysis and records of the site investigation and (6) Nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation, and;
 - (B) No development shall take place other than in accordance with the written scheme of investigation approved under condition (A), and;
 - (C) The development shall not be operated until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological written scheme of investigation approved under condition (A) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

In this case the programme of archaeological mitigatory work will consist of an archaeological excavation. A brief for the archaeological work can be obtained from Norfolk County Council Historic Environment Service.

- (5) Tree protection conditions to be confirmed.

Reasons:

- (1) The time limit is imposed in compliance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- (2) For the avoidance of doubt and to ensure the satisfactory development of the site in accordance with the specified approved plans and documents.
- (3) To ensure the satisfactory development of the site in accordance with Policy GC4 of the Development Management DPD 2015.

- (4) To enable the archaeological value of the site to be properly recorded before development commences in accordance with Policy EN2 of the Development Management DPD 2015.
- (5) To ensure the appropriate protection of landscape features adjacent to the site in accordance with Policies GC4 and EN2 of the Development Management DPD 2015.

Plans and documents:

Dwg. No.18/094/01 rev. A – Proposed Location Plan, received 4 September 2018

Dwg. No. CL-1030 rev. P3 – Red line Boundary, received 19 September 2018

Dwg. No. CL-5001 rev. P2 – Detailed Design Drainage Strategy, received 19 September 2018

Dwg. No. CL-4003 rev. P2 - Drainage Construction (sheet 3 of 3), received 19 September 2018

Dwg. No. CL-1025 rev. P1 received 17 September 2018

Foul Water Drainage Strategy received 17 September 2018

Informatives:

- (1) The Local Planning Authority has taken a positive and proactive approach to reach this decision in accordance with the requirements of paragraph 38 of the National Planning Policy Framework.
- (2) The applicant is advised that separate licence approval for these works will be required in addition to the planning permission.

SUPPLEMENTARY SCHEDULE TO APPLICATIONS TO BE CONSIDERED

Plan No	Application No	Location	Update	Page Nos
2	20181336	Land west of Blind Lane, Honingham	<p>Revised plans were submitted on 24/9/18 which alter the position of part of the planning application site; in so far as the position of the swale and culvert are moved 10m further north to give greater separation to the trees and hedgerows along the southern field boundary.</p> <p>Honingham Parish Council, Easton Parish Council, Marlingford & Colton Parish Council, the District's Conservation Officer (Arboriculture & Landscape) and the neighbouring property at Red Barn Cottage were re-consulted on 26 September 2018 and given 14 days to comment, expiring on 10 October 2018.</p> <p>Additional representations received:</p> <p>District's Conservation Officer (Arboriculture & Landscape):</p> <p>As the swale is now re-positioned it appears to be at least 16m from any of the existing trees, so there shouldn't be any excavations within the tree root protection areas (RPA's). RPA's should still be protected from intrusion during the construction works and some form of temporary construction exclusion zone being in place at the edge of the trees RPA's.</p> <p>Easton Parish Council: Object – full text of objection attached as SS Appendix 3.</p>	

			<p>Red Barn Cottage, Blind Lane, Honingham:</p> <p>Remain concerned about the effect on their water supply, nothing is mentioned about bacterial or chemical content of the discharge which will probably continue for years until a sewer connection is made. Contamination of our drinking water supply is unavoidable. Is there an independent body that can comment on this situation?</p> <p>1 Horse & Groom Yard, Colton - additional comments:</p> <p>These applications seek to use the LDO site, yet seem to apply a bizarre mixture of LDO conditions and extra-LDO justifications to support them.</p> <p>Either they are entirely independent applications - in which case, of course, they cannot apply any of the LDO pre-conditions or exemptions - or they are seeking to vary the LDO conditions for the site, which must be a matter for consideration by the full Council.</p> <p>As they stand, it would seem that the Council's officers cannot properly consider them until proper clarification and answers to the many questions they raise have been properly answered. It seems entirely possible that any Council officer recommending their adoption in their current form would be acting ultra vires.</p> <p>Environment Agency: We have inspected the application, as submitted, and have no objection to the proposals.</p> <p><u>Infiltration Lagoon</u></p> <p>We have reviewed the documents submitted online, including the Foul Water Drainage Strategy and Drawing CL-5001, and site</p>	
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			<p>investigation documents and are satisfied that the proposed infiltration lagoon is appropriate for this location. We do not require any further consultation on this aspect.</p> <p><u>Foul Drainage</u> We have no objection regarding the infiltration lagoon itself, but advise that a foul discharge to a contained lagoon is not recommended and that a permit would be required. As part of the permit application, the applicant would need to provide strong justification as to why a temporary facility is needed when a foul sewer connection is possible.</p> <p>Anglian Water:</p> <p>We have liaised with the applicants of the Food Enterprise Park and understand that the proposal for foul drainage does not relate to Anglian Water assets. As such we have no concerns or comments to make in relation to the Local Development Order. Should the proposed method for foul drainage change to include interaction with Anglian Water operated assets, we would wish to be re-consulted.</p> <p>Further details received from applicant's consultant:</p> <p><u>Water Quantity</u></p> <p>The site has been designed for the maximum design storm required which is 1 in 100 year plus 40% climate change. All water from the site and other areas running into the lagoon, in this design storm, have been accounted for in the size of the swales, basin,</p>	
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			<p>pipes and manholes for the development.</p> <p>Extensive on-site testing and the use of the required design factors means that all of this water is contained within the site.</p> <p><u>Water Quality</u></p> <p>A SuDs treatment train has been provided to treat the water run-off from all developments on the industrial estate:</p> <ul style="list-style-type: none"> • oil interceptor on each development • swales • sediment forebay / wetland • infiltration basin which has topsoil and a deep sand layer before it hits the water table. The sand layer provides the final water treatment stage. <p>This complies with the requirements of Ciria C753 - the SUDS manual. All of these features, as with any drainage system, will require regular maintenance in accordance with the recommendations of the SUDS manual also. The EA have also confirmed that they are happy with the proposals relating to water quality and potential effects on the ground water table.</p> <p>The applicant has confirmed that all soil arising from the excavation of the lagoon would be spread across their agricultural holding without the need for vehicles to enter onto the County roads.</p>	
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			<p><u>Officer comment:</u></p> <p>The Environment Agency has raised no objection to the proposals and confirmed that before any outfall from the temporary private foul water treatment plant can enter the drainage system the applicant will need to receive a permit from the Environment Agency which is an independent assessment of the detailed drainage proposals, only if it is deemed safe will a permit be issued. It is noted that Anglian Water also has no objection. The proposal to dispose of the soil arising from the proposed excavation within the applicant's substantial agricultural holding without vehicles transporting it using the County roads will confine the effect of the proposals to the surrounding area, which is considered to be appropriate and will not add to the vehicular movements along Church Lane.</p> <p>Revised recommendation:</p> <p>As the consultation period of the planning application expires on 10 October 2018 which is after the Planning Committee, and for clarity as it is also recommended to approve the requirements of condition 2.25 of LDO, the recommendation therefore is changed to:</p> <p>A) Approve the details submitted under condition 2.25 of the Local Development Order; and</p> <p>B) To delegate authority to the Head of Planning to APPROVE the planning application, subject to no new material issues being raised before the expiration of the consultation period and subject</p>	
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			<p>to the following conditions:</p> <ul style="list-style-type: none"> - Condition 5. Add a condition requiring a temporary construction exclusion zone being in place at the edge of the trees RPA's during the construction phase. <p>Revise the schedule of plans and documents specified by substituting Dwg. Nos. 18-094-01A; CL-1030 rev. P3; CL-5001 rev. P2; CL-1025 rev. P2 with 18-094-01B; CL-1030 rev. P4; CL-5001 rev. P3; CL-1025 rev. P3.</p>	
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Easton Parish Council

www.eastonparishcouncil.co.uk

Mr Rooke
Broadland District Council
Planning Department
Thorpe Lodge,
1 Yarmouth Road,
Norwich, NR7 0DU

30 September 2018

Dear Mr Rooke,

Re Planning Application 20181336

Further to our telephone conversation of Friday and to avoid any doubt Easton Parish Council **objects** to the above planning application until such time as all outstanding matters have been addressed and the deliverability of the scheme is proven.

Brown & Co stated in a letter dated 17th September 2018 that the proposal would fall within the scope of paragraph 13(b) of Schedule 2 of the 2017 EIA Regulations as an extension to an authorised industrial estate project (paragraph 10(a)). The proposal would exceed the relevant threshold criteria in column 2 as the site exceeds the 0.5 hectare threshold for industrial estate project.

The applicable authorised project to which the extension applies is the site of the Local Development Order (LDO). The sole use of the lagoon is to effect the LDO and therefore we would argue is also an extension to the LDO which we believe should be a decision for the full Council and a further public consultation. You must appreciate that any intention that this application is a revision to or a further Development Order proposal has implications of pre-consultation under the Localism Act, reinforcing the need to invalidate this application.

You state in the committee papers that it is your contention this scheme falls under Category 10(b) of Schedule 2 – “Urban development projects, which including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas”. This is at odds with the developer’s interpretation of the proposal and makes a false representation of incorrect information to the Planning Committee. A lagoon is clearly none of the above structures.

There are other inaccuracies in the application process which should invalidate the application namely;

Contact details: Cllr P Milliken Chairman, Easton Parish Council C/O 29 Woodview Road, Easton, Norwich, NR9 5EU
Tel: 01603 881035 Email: chair@eastonparishcouncil.co.uk

1. The full name of the applicant is not stated and whether he is acting as an individual or representing a company.
2. The covering letter to the application is dated 19th January 2018.
3. The application dated 14th August incorrectly stated the area as 20071m² and that Certificate A was submitted by the Applicant but the agent's details were given. This was corrected in the amended application received 11th September but the original dated remained. It is evident that the amendments were not carried out on 14th August and the legality of the second submission is suspect.
4. If the date of the amended application is assumed as 11th September (date of receipt), the date of Certificate A becomes invalid as it is greater than 21 days before the assumed date of the amended application.
5. The CIL Form is dated 10th August and is therefore invalid as it predates both the original and amended applications.
6. There are other anomalies on the application form which appear to be inconsistent with other details submitted. Item 8 states there is no access from the public highways but there is no other way lorries can access the site to remove spoil. Item 14 states that the plans do not incorporate areas to store and aid the collection of waste – excavated subsoil for disposal off-site is a waste material and areas for temporary spoil heaps should be incorporated into the planning areas. Item 18 states that the development will not require the employment of staff but maintenance requirements will involve labour.
7. The applicant has stated that some of the excavated material will be spread adjacent to the lagoon. These areas should be shown as part of the site but they are not.

Until such time as the legal standing of this application has been proven we would suggest to the planning committee that a discretionary approach should be adopted in relation to deciding the validity of this application and that counsels' option is sought to bring clarity to this matter.

Should the planning committee decide to ignore the concerns that we have raised we would wish to draw your attention to the following points Anglian Water and the Environment Agency have as yet provided no response to the revised plans and the consultation is still open and the public have the right to scrutinise these responses before a final decision is made.

The Environmental Health Officer for Broadland has stated that the applicant should provide evidence to show that septicity and subsequent odour will not arise before planning permission is granted for this type of discharge. It is our understanding to date no evidence has been provided.

We still have major concerns in relation to the disposal of foul water and the installation of a temporary private treatment plant. We would look to be assured that any plant is designed to cater for employee and visitor numbers which are in line with your job creation report to Defra as part of the LDO process.

We would also like to suggest that the following conditions are added to any final decision that is made.

1. All permissions must be obtained for the disposal of arisings from site before work commences.
2. A written agreement that no public highway is to be used for the movement of arisings
3. A bond payable to ensure compliance with the removal of the private treatment plant and its associated infrastructure once the first 20,000sq. m of development floorspace has been achieved or 5 years after commissioning whichever is the sooner. This is in an effort to give full comfort that this is a temporary measure and not a long-term solution should suitable enterprise not be attracted to the development site.

We note that you have extended the remit of this application to include approval of the details of condition 2.25 of the Local Development Order. Please advise your authority for this as we have not seen a written application from the developer for this to be considered.

The recommendation for approval of the 20181336 is conditional and therefore cannot discharge the condition of another planning application. Also condition 2.25 of the LDO requires formal acceptance from Anglian Water for the temporary sewerage treatment plant which we understand has not been issued. The foul water drainage strategy drawing was not submitted until 17th September (revised 24th September) and is still within the consultation period. Currently we are still considering this design and may wish to comment later.

The foul water pumping station is again outside the area of the LDO site and will require separate planning approval. Even if the temporary solution of a sewerage plant is acceptable as an interim solution, the permanent solution will require approval, including a separate planning approval by South Norfolk, before this can be discharged.

Both the surface and foul schemes will require maintenance agreements by the site owner (not necessarily the developer) which may be under separate third party contracts. Full details will be required in the discharge of condition 2.25.

Yours sincerely

Cllr Peter Milliken
Chair Easton Parish Council

THE STATEMENT OF FACTS AND GROUNDS
REFERRED TO IN THIS REPORT CAN BE
FOUND ATTACHED TO THE PREVIOUS
REPORT ([APPENDIX 2](#))

Appendix 2

From: Lead Local Flood Authority
To: [Matthew Rooke](#)
Subject: RE: Pl. app. 20181336 Drainage Strategy submitted in support of discharge of condition 2.25 under planning ref: 20170052.
Date: 22 October 2018 11:01:02

Matthew,

Sorry that I did not response to this – the role of the LLFA as statutory consultee is to comment on major developments for surface water drainage, not foul, so I did not feel a response was necessary.

With regard to modelling, we only consider that the applicant accounts for the 1 in 100 rainfall event plus 40% climate change.

Please let me know if you require any further information..

Regards

Lucy Perry BEng(Hons) IEng MICE MCIWEM Flood Risk Officer

Lead Local Flood Authority (Highways Design and Development)

Tel: 0344 800 8020

Email: llfa@norfolk.gov.uk for any pre-planning or statutory consultee enquiries

Email: water.managment@norfolk.gov.uk for any reports of flooding, watercourse regulation or general enquiries

From: Matthew Rooke [mailto:matthew.rooke@broadland.gov.uk]

Sent: 19 October 2018 16: 03

To: Perry, Lucy <lucy.perry@norfolk.gov.uk>; 'Eleanor.Stewart@environment-agency.gov.uk' <Eleanor.Stewart@environment-agency.gov.uk>

Subject: Pl. app. 20181336 Drainage Strategy submitted in support of discharge of condition 2.25 under planning ref: 20170052.

Lucy/Eleanor

I e-mailed you both on 8 October to ask you to comment on the further details that I had received from Easton Parish Council dated 8 October 2018 together with the data model concerns attached. As I don't appear to have received a reply I'm therefore requesting that you e-mail your comments to me in this respect as I'm keen to bring the matter to a conclusion.

I'm aware that you both raised no objection recently to the drainage proposals shown under planning application ref: 20181336 and the drainage proposals for the FEZ and these comments were reported to Planning Committee, however the Parish Council has asked that these further points be taken into account before a decision is made on the planning application.

For your information I have received the comments of Anglian Water in respect of the foul drainage proposals and they state that they have no comment to make in relation to the short term foul drainage strategy and in terms of the trigger to connect to the public foul network they will work with the applicant and through the Water Industry Act 1991 sections 104 and 106 process they will ensure the design is acceptable.

I'd be really grateful therefore if you could respond to the attached further comments in respect of the proposed temporary foul drainage proposals to serve the FEZ as soon as possible next week.

Regards

Matthew

Matthew Rooke

West Area Planning Manager

Broadland District Council

Tel: 01603 430571

matthew.rooke@broadland.gov.uk

www.broadland.gov.uk

From: Wilson Hannah
To: [Matthew Rooke](#)
Subject: FW: Drainage Strategy submitted in support of discharge of condition 2.25 under Planning Application 20170052
Date: 10 October 2018 12:31:22

Dear Matthew Rooke,

Anglian Water has been in consultation with the applicant regarding the FEZ development. We are fully aware of the short term foul drainage strategy and have no comments to make in relation to this.

In respect of the trigger to connect to the public foul network, Anglian Water will work with the applicant and through the Water Industry Action 1991 section 106 (right to connect) and section 104 (adoption) process we will ensure the design is acceptable.

Anglian Water will monitor the development of the site, this will enable us to effectively manage the long term solution and ensure consultation and implementation happen in a timely manor.

If you have any further questions please do contact me.

Kind regards
Hannah Wilson
Pre-Development Planning Manager

Pre-Development Team
Development Services

Anglian Water Services Limited
Thorpe Wood House, Thorpe Wood,
Peterborough, Cambridgeshire, PE3 6WT
Telephone: 0345 606 6087 option 1
www.anglianwater.co.uk

From: Matthew Rooke [<mailto:matthew.rooke@broadland.gov.uk>]
Sent: 08 October 2018 10:55
To: 'lucy.perry@norfolk.gov.uk'; 'Lead Local Flood Authority'; Wilson Hannah; 'Stewart, Eleanor'
Cc: Phil Courtier
Subject: FW: Drainage Strategy submitted in support of discharge of condition 2.25 under Planning Application 20170052
Importance: High

EXTERNAL MAIL - Please be aware this mail is from an external sender - THINK BEFORE YOU CLICK

At Planning Committee on Wednesday it was resolved to approve planning application ref: 20181336 for the infiltration lagoon associated with the FEZ together with the strategic surface water and foul water drainage proposals for the FEZ, submitted under condition 2.25 of the LDO; subject to no new material

issues being raised before the expiration of the consultation period (on 10 October 2018).

I have this morning received the attached further comments from Easton Parish Council which raises specific concerns about the foul water drainage proposals for the FEZ.

Given the need to consider whether new issues raised are material to the decision to approve the submitted details, I'd be grateful to receive your written response as a matter of urgency to the points raised in the letter about the proposed design and capacity of the temporary private treatment plant to serve the FEZ, as the application is due to be determined on Wednesday this week.

In respect of the Anglian Water pumping station to the north west of the LDO I was copied into an e-mail from South Norfolk Council which confirmed that the pumping station was permitted development.

Regards

Matthew

Matthew Rooke

West Area Planning Manager

Broadland District Council

Tel: 01603 430571

matthew.rooke@broadland.gov.uk

www.broadland.gov.uk

From: Peter Milliken [<mailto:chair@eastonparishcouncil.co.uk>]

Sent: 08 October 2018 09:18

To: Matthew Rooke

Cc: Cllr Susan Lawn; Cllr David Willmott; Cllr Greg Peck; Margaret Dewsbury; Michael Eales; clerk.honinghampc@gmail.com; Easton Clerk; Heidi Frary

Subject: Drainage Strategy submitted in support of discharge of condition 2.25 under Planning Application 20170052

Morning Matthew,

I have now received advice back from our advisors in relation to the design of the foul drainage system, parts of which make concerning reading.

Can you please as a matter of urgency confirm if these facts are correct.

As the consultation is due to end within the next few days please advise us what your position will be in relation to these matters.

Regards

Peter

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The information contained in this message is likely to be confidential and may be legally privileged. The dissemination, distribution, copying or disclosure of this message, or its contents, is strictly prohibited unless authorised by Anglian Water. It is intended only for the person named as addressee.

From: Stewart, Eleanor
To: [Matthew Rooke](#)
Subject: RE: Pl. app. 20181336 Drainage Strategy submitted in support of discharge of condition 2.25 under planning ref: 20170052.
Date: 24 October 2018 15:34:04

Hi Matthew,

Apologies for the delay in getting back to you on this.

We have reviewed the letter from Easton Parish Council, and we are satisfied with the principle of using a package treatment plant that discharges to the lagoon. Due to the number of people on site, the output will likely be above the limits for our General Binding Rules, which means that the operator will need to apply for a [permit](#) from us. It can take up to 4 months before we are in a position to decide whether to grant a permit or not, so we always advise that the operator should [contact us](#) in good time. We welcome the long-term plan to connect to the public foul network, and Anglian Water's confirmation to ensure that this can be achieved. Will there be a planning condition to limit the timescale that the package treatment plant is in use for?

In terms of the concerns relating to surface water flooding, the LLFA will be able to provide further guidance.

Kind regards,

Eleanor

From: Matthew Rooke [mailto:matthew.rooke@broadland.gov.uk]
Sent: 19 October 2018 16:03
To: 'lucy.perry@norfolk.gov.uk' <lucy.perry@norfolk.gov.uk>; Stewart, Eleanor <Eleanor.Stewart@environment-agency.gov.uk>
Subject: Pl. app. 20181336 Drainage Strategy submitted in support of discharge of condition 2.25 under planning ref: 20170052.
Lucy/Eleanor

I e-mailed you both on 8 October to ask you to comment on the further details that I had received from Easton Parish Council dated 8 October 2018 together with the data model concerns attached. As I don't appear to have received a reply I'm therefore requesting that you e-mail your comments to me in this respect as I'm keen to bring the matter to a conclusion. I'm aware that you both raised no objection recently to the drainage proposals shown under planning application ref: 20181336 and the drainage proposals for the FEZ and these comments were reported to Planning Committee, however the Parish Council has asked that these further points be taken into account before a decision is made on the planning application. For your information I have received the comments of Anglian Water in respect of the foul drainage proposals and they state that they have no comment to make in relation to the short term foul drainage strategy and in terms of the trigger to connect to the public foul network they will work with the applicant and through the Water Industry Act 1991 sections 104 and 106 process they will ensure the design is acceptable. I'd be really grateful therefore if you could respond to the attached further comments in respect of the proposed temporary foul drainage proposals to serve the FEZ as soon as possible next week.

Regards
Matthew

Matthew Rooke
West Area Planning Manager
Broadland District Council

Tel: 01603 430571
matthew.rooke@broadland.gov.uk
www.broadland.gov.uk

Note of further comments received since Planning Committee 3/10/18 insofar as they relate to planning application re: 20181336

06.10.18 – Joint letter from Easton, Marlingford & Colton Parish Councils (including an attachment on data model concerns)

The following information has been brought to our attention and we note that the Drainage Design Reports from Causeway Ltd (141222_SW_P1_With Area 5 and 141222_SW_P1_WithOUT Area 5) use Causeway's Flow+ v6.0 software based on the Flood Estimation Handbook (FEH) and the FEH13 rainfall depth-duration-frequency (DDF) model.

The FEH13 rainfall depth-duration-frequency model is a scientific model that is maintained and updated by the Centre for Ecology & Hydrology (CEH) at Wallingford. A recent Environmental Information Request (EIR) by Dr Andrew Boswell of Climate Friendly Planning and Policy, Norwich, provides more background from CEH scientists on the FEH13 DDF model, and the status of it's up-to-date-ness against recent weather events. This is attached below.

We would draw your attention to the highlighted paragraph, reproduced here:

'Following on from the extreme rainfall events and floods experienced in Cumbria in winter 2015-16, current research is recalibrating the FEH13 DDF model using daily and hourly annual maximum rain gauge data up to and including 2015. If this is found to have a substantial effect on the frequency estimates (for example, the 1-in-100-year rainfall of 1-day duration) in the region, it is likely that a recalibration of the model using updated annual maxima throughout the UK will be recommended. In this case, the revised model estimates would be rolled out through the FEH Web Service. (our emphasis)'

This refers to the Storm Desmond of December 2015. We would also refer to you a CEH blog post at <https://www.ceh.ac.uk/news-and-media/blogs/north-west-floods-hydrological-update> on Storm Desmond where it is stated:

The storm has been a record breaker, with the rain gauge at Honister Pass in the Lake District recording 341.4 mm in the 24 hours up to 1800 GMT on 5 December 2015. The recently released FEH13 rainfall frequency model (Stewart et al, 2013) estimates that this observation has a return period of about 1300 years at this particular location, corresponding to a probability of 0.08% in any one year. This means that in any given year the probability of the highest rainfall being larger than 341.4mm is 0.08%.

The rainfall with Storm Desmond in Cumbria was a 1 in 1300 year event on the current modelling. This is completely off the range of the modelling used in Causeway's Drainage Design Reports.

Given the increasing storms of higher intensity, being experienced now in the UK and elsewhere around the planet, and predicted to get worse in the future with climate change, we believe that the tolerances implied by the Drainage Design Reports for 20181336 are totally inadequate for securing the design against future rainfall events. The Drainage Design Reports define an insecure design, and the impact of this that the lagoon is not fit to trap potential future surface water flows, and the risks of overspills of the lagoon into the watercourses leading to the River Tud are underestimated.

For due diligence, we insist that Causeway Ltd are asked to review their modelling in the light of the scientific work being carried out by CEH, Wallingford and report back.

This must be done before planning permission can be granted. Further, for due diligence, Causeway should sign a statement as to the validity of their modelling, following its review, and before consent may be given. This will help inform liability and compensation cases that may later result from the overspill of the lagoon.

You may wish to consult with your legal advisors on this matter as it is our understanding as you now have knowledge of this matter should delegated powers be used to finalise consent without the review of the drainage data, then BDC would be LIABLE for future compensation claims should the lagoon or any part of its design that has or will rely upon this potentially flawed data model.

Due to the concerns we have in relation to the potential environmental impact that may occur should a failure of the lagoon and/or its infrastructure due to the use of the data model you are currently relying upon, we have copied in Easton Estates and the Norfolk Wildlife Trust so there is an open and transparent approach to our concerns.

08.10.18 Easton Parish Council

I have now received advice back from our advisors in relation to the design of the foul drainage system, parts of which make concerning reading. Can you please as a matter of urgency confirm if these facts are correct?

Please see details of the advice given below:

Foul Drainage

The proposals are for an interim solution of a septic tank discharging into the surface water drainage to an off-site lagoon and the permanent solution for a gravity feed system and pumped main to the main sewer in Easton village.

The design of the septic tank is stated on drawing 141222-C-1025-P3 as KLARGESTER BIOFICIENT COMMERCIAL SEWAGE TREATMENT PLANT MODEL REFERENCE '47H' LENGTH 9.700m. The invert is stated as 43.370 with the cover level as 45.65, meaning that the invert is 2280 below cover or ground level. The Klargestter technical brochure notes that the maximum depth of invert below cover for this plant is 2000 and therefore re-profiling of the surrounding ground will be required. Assuming that the back edge of the south footpath adjacent to the spine road is c150 above the road level, the ground around the septic tank will drop c375 from this back edge. Is this OK for access to the plant?

The Rossi Long Consulting Technical Report suggests that the plant has the design capacity for a population of 150 people. The waste water discharge design flows are different for various classifications and the report is unclear whether the number relates to industrial usage and caters for higher flows from canteen facilities.

The industrial unit proposed for Condimentum is 1800m² (75 x 24) with an occupation of 25 employees. On the same ratio 150 people would be accommodated in 10,800m². The area of 20,000m² suggested in the report appears to be double this figure. Broadland has not questioned the proposal but simply approved an area which appears to be double the capacity of the interim plant.

The lateral connections to the permanent main installed under the spine road and left for connections from the future developments do not all withstand scrutiny. There are 5 laterals proposed to the north of the spine road for future foul drainage from the developments. The inverts of these are PF1B- 44.45; PF2B-43.85; PF3A-43.25; PF4B-42.65 and PF5B-42.10. At the edge of the swales to the northern boundary the existing ground levels vary between 43.50 and 44.00.

Assuming the invert at head of the foul drains will be circa 500mm below ground level and there will be at least a 2.50 fall from the swale to the spine road for a 150 diameter pipe at 1 in 50, the depths at the spine road will range from 40.50 to 41.00 all of which is below all of the laterals. The present proposals would dictate that all buildings are kept as close to the existing levels at the spine road with all facilities requiring foul drainage also as new to the front as possible. There is a 2.5 to 3m fall across the northern half of the site in the opposite direction of the drainage falls. Keeping pavements level with the building datum, especially if level access similar to Condimentum is required, would seem to create a design difficulty. The required depths of the laterals cannot be determined until the datum of the buildings and pavings are known. On the south side the invert at lateral PF1A is 44.475 which is above the interim connection on the temporary system to the septic tank is lower PF8 43.657 and cannot be connected when changing over to the permanent solution.

Is the developer really prepared to put in a spine road with foul drainage without knowing where prospective tenants will want site accesses as shown on the drawing?

The permanent solution relies on a gravity drain and pumping station on the adjacent site within the administrative area of South Norfolk. It is assumed that planning permission for the pumping station will be required, even if the gravity drain and pumping main is undertaken under licence. Has this been checked?

The proposals are that the permanent solution, including the pumping station will be adopted by Anglian Water. It is difficult to understand how Anglian Water can approve the system in the present embryonic form. If the proposals have not been approved by Anglian Water it is also difficult to understand how Broadland can approve for discharge of condition 2.25.

There seems no point in approving an interim solution if the permanent solution is opposed by Anglian Water either in principle or a particular design aspect. Page 3 of 3

The gravity drain and pumping main are stated on the drawing to follow estate roads across the phase 2 area of the Food Enterprise Park, reinforcing the need for this to form part of the EIA for the Condimentum site under its ES.

08.10.18 on behalf of Wensum Valley Alliance

Our objections to the **Lagoon application 20181336** are again environmental, although we are pleased to see the matter of surface water drainage from the industrial site areas is being taken very seriously, again bearing in mind that the proposal shown only serves the Western Half of the marketed FEZ area.

We consider the installation of a foul sewage treatment plant as a temporary measure based upon square meters of Development, rather than the numbers of users to be wrong and the separate proposal is again contrary to the Design Code adopted for the LDO. Once granted consent, what is to stop others proposing mini treatment installations and further what guarantees are available for the proper inspection and maintenance to avoid potential contamination and discharge into the lagoon? The foul drainage also receives an acid discharge from the factory. Has this been taken into account in the biological processes?

Despite a contrary statement from Officers that overflow from the lagoon cannot reach the Tud, the topographical evidence is that the ground falls first Westerly from the SW lagoon corner and then North towards the A47 and Tud valley.

Our reservations about these design proposals show the designed top water level at 37.165 is still higher than existing ground at the SW corner at 37.15 meaning that SW corner area must be raised. Further that there must be reservations about lagoon drainage designs as the NNDR

infiltration design periods have not been achieved, water holding in some of the lagoons throughout the summer drought. Therefore we consider that Safety Margins need to be improved.

The farmland of area 5 above the lagoon remains in use as farmland, which means that plant/crop treatments of herbicide and pesticides can drift downhill into the lagoon area and could therefore concentrate and discharge and pollute in a storm event.

Finally, the design proposals do not clarify the disposal of the large amounts of excavated material that will arise from the swales, culverts and lagoon area. As most of this will not be topsoil, it can hardly be deposited on adjoining farmland without separate consent. It is considered that this matter is being downplayed because the HGV traffic and damage that would be generated by its proper disposal would be significant.

07.10.18 19 Aldryche Road, Norwich

I consider that application **20181336** must also be considered as part of a cumulation of effects. However, there are more serious concerns relative to this application.

The following is a list of discrepancies which should have invalidated this application but which have been ignored.

1. The full name of the applicant is not stated and whether he is acting as an individual or representing a company and if so what company.
2. The covering letter to the application from Brown & Co is inexplicably dated 19th January 2018.
3. The application dated 14th August incorrectly stated the area as 20071m² and included Certificate A noted as submitted by the Applicant but for which the agent's details were given. This was corrected in an amended application received 11th September but the original date on the form remained. It is evident that the amendments were not carried out on 14th August and the legality of the second submission is suspect.
4. If the date of the amended application is assumed as 11th September (date of receipt), the date of Certificate A becomes invalid as it is greater than 21 days before the assumed date of the amended application.
5. The CIL Form is dated 10th August and is therefore invalid as it predates both the original and amended applications.
6. Other anomalies on the application form which appear to be inconsistent with other details submitted. Item 8 states there is no access from the public highways but there is no other way lorries can access the site to remove spoil. Item 14 states that the plans do not incorporate areas to store and aid the collection of waste – excavated subsoil for disposal off-site is a waste material and areas for temporary spoil heaps should be incorporated into the planning areas. Item 18 states that the development will not require the employment of staff but maintenance requirements will involve labour.
7. The applicant has stated that some of the excavated material will be spread adjacent to the lagoon. These areas should be shown as part of the site but they are not.

The procedures for EIA have been correctly followed for an isolated submission as noted at 9.15 of this report. Broadland confirms that it has carried out a screening as it is required under Regulation 8 (1) and determined this to be a non EIA development.

However, it is clear that the provision of the lagoon and infiltration basin is an essential requirement in enabling both the LDO development and application 20181294.

This site and application must therefore also come within the sphere of cumulative effects for the EIA development at 20181294.

Notwithstanding the correct EIA screening procedures for this proposal, you have assessed it as falling within Section 10 (b) of Schedule 2 of the Regulations. For clarity, I confirm this section is defined as

“Infrastructure Projects - Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas.” I am at a loss to follow the logic of this judgement.

It is understood that the applicant’s agent, Brown & Co, suggested to you in a letter dated 17 September 2018 that “In relation to the Environmental Impact Regulations, it is noted that the proposal would fall with the scope of paragraph 13(b) of Schedule 2 as an extension to an authorised industrial estate project (paragraph 10(a)). Again for clarity this section is confirmed as “Any change to or extension of development of a description listed in paragraphs 1 to 12 of column 1 of this table, where that development is already authorised, executed or in the process of being executed.”

I would be grateful for your views on this matter. Clearly section 10(b) cannot be applicable. I can accept the logic of section 13(b) as it facilitates an industrial estate under section 10(a) approved by the LDO process.

However, this would then raise a further question. If it is an extension to the LDO should this not be subject to the same process as the LDO with a public consultation and consideration by the Full Council?

It was known during the preparation of the LDO that a SuDs surface water drainage system was not practical on the LDO site itself and that an off-site solution was likely to be required. A drawing referenced 141222 SK-003 P1 from Rossi Long, noting Broadland District Council as the Client and which strangely is not receipt date stamped is posted to the planning web portal at 20170052. The drawing shows an earlier version for the off-site lagoon in this same location and with the issue P1 date stated as 1/11/2017, a day after the dated of the LDO.

This poses the question that if at the date of the LDO (31/10/2017), Broadland was aware that extra land was required to facilitate the LDO, as it must have done by instructing Rossi Long to design a workable solution, why did it not extend the area at that time rather than now leaving it to the developer to remedy the omission retrospectively through the planning process?

Broadland simply made agreement to the surface water drainage design conditional, presumably for expediency to avoid further delays through consultation for the additional area.

Hopefully Broadland will belatedly now consider taking legal advice to establish how this application should be treated under planning regulations. Again until these important issues are resolved I consider the power of approval delegated to the Head of Planning is negated.

Finally, I am amazed that discharge of LDO condition 2.25 was approved as part of the review of application 20181336 noting the absence of critical details from the committee papers. In particular, condition 2.25 requires details of ownership and maintenance, neither of which is reported in the papers. I understand that an application for discharge of a planning condition must be in writing and there is nothing in the submissions from the applicant to indicate that this was requested as part of the planning application for the lagoon. It is also difficult to understand how the condition can be discharged if approval for the lagoon on which it is reliant, is still in abeyance until expiry of the consultation period.

The condition has not been fully satisfied and the approval should be rescinded.

13.10.18 19 Aldryche Road, Norwich

I note from the published decisions that this was approved by the Planning Committee on 3rd October 2018.

I find this surprising for the following reasons

The planning application for the lagoon site was not approved but authority passed to the Head of Planning to approve. Until this is formally approved the condition should not be discharged.

The condition requires details of ownership and maintenance of the systems, particularly the interim sewerage plant. These are not provided.

Foul drainage from the Condimentum site includes acids (vinegar) from the mint process. Has it been confirmed that a sewerage treatment plant can accommodate this and will it not simply pass through to the lagoon via the connection to the surface water drainage system?

The surface water infiltration relies on an isolated pocket of suitable substate which the applicant states as being determined from boreholes. Evidence of this material and its suitability have not been made public for reviewing. Unless it has been provided with this detail, Broadland should delay approval so that the information can be assessed.

There is no reason why the pumping station should be on the adjacent site, except for future works for phase 2 within South Norfolk. The drainage scheme should relate to the LDO site only.

There is a disjoint between the invert depths for the laterals to the north of the spine road and the drainage falls which will be required from the ground levels at the northern boundary, limiting the flexibility of development for this half of the site.

I request that the approval is reconsidered against the above.

22.11.18 19 Aldryche Road, Norwich

I refer to my letter to Mr. Rooke via e-mail, dated 1 November 2018, in which I put Broadland District Council ("**Broadland**") on notice that I am considering a formal judicial review of the planning decision for the above application and requested details in connection therewith. Unfortunately this letter remains unanswered. Therefore I would be grateful if you could forward a copy of the statement of my position set out in this letter, provided in accordance with the relevant pre-action protocol, to your legal advisors and any interested parties. An acknowledgement of receipt would also be appreciated.

As a preamble, I have concerns with the lack of information, particularly the failure to publish replies from statutory consultees, which is made available to the public by Broadland on its planning web portal for all planning applications. This hinders a full understanding and public engagement contrary to the democratic process.

a) Should this proposal be considered as a separate planning application or a modification to the LDO, noting that its specific purpose is effect the LDO by discharging of one of the pre-construction conditions?

Application 20181336 seeks permission for a lagoon on a separate 2 hectare site to accommodate surface water drainage discharge from the LDO development.

The Council minutes of the meeting record that the separate site is necessary as a lagoon on the LDO site would significantly reduce the developable area.

This is disputed as the reason. The falls on the LDO site would suggest there is no suitable location for a lagoon within its boundary. Also, details within the submission note that the lagoon requires specific subsoil conditions for percolation and that the selected adjacent site is the optimum suitable. The soils report accompanying the LDO review noted that the subsoils on this site were unsuited to percolation.

Despite being requested, there is no evidence that the soil conditions in the area chosen for the lagoon on the adjacent site will allow the rate of infiltration stated in the design parameters. Please provide the soils report justifying the selection of this location and calculations of the effectiveness of the design.

It is noted that at the time of the LDO, the strategic proposals for surface water drainage were commissioned by Broadland and it was known during the preparation of the document that a SuDs surface water drainage system was not practical on the LDO site itself and that an off-site solution was likely to be required. A drawing referenced 141222 SK-003 P1 from Rossi Long Consulting, noting Broadland District Council as the Client and which is not receipt date stamped is posted to the planning web portal at 20170052. The drawing shows an earlier version for the off-site lagoon in this same location and with the issue P1 date stated as 1/11/2017, a day after the LDO was executed.

The applicant's agent, Brown & Co, outlined in a letter dated 17 September 2018 that *"In relation to the Environmental Impact Regulations, it is noted that the proposal would fall with the scope of paragraph 13(b) of Schedule 2 as an extension to an authorised industrial estate project (paragraph 10(a))"*. For clarity this paragraph is confirmed as *"Any change to or extension of development of a description listed in paragraphs 1 to 12 of column 1 of this table, where that development is already authorised, executed or in the process of being executed"* and would seem to reinforce the position that this is a change to the LDO by adding an additional area of land to be considered under a revised LDO.

Broadland chose to ignore this and assessed the submission within the committee papers as falling within Section 10 (b) of Schedule 2 of the Regulations. For clarity, this section is defined as *"Infrastructure Projects - Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas."* Apart from deliberately divorcing this from the LDO, there is no logic in this misleading statement. If Broadland was aware of the potential requirement for this additional land, it is contended that the LDO should have been delayed until the issue had been clarified.

However, this did not occur and the question now arises as to whether this should be considered as a change to the LDO and a modification to the Food Enterprise Zone rather than a separate planning application.

b) Have the anomalies in the application forms as noted in my letter ref 20181294 and 21081336 dated 7 October 2018 been resolved?

The following is a list of discrepancies which should have invalidated this application but which have been ignored.

1. The full name of the applicant is not stated and whether he is acting as an individual or representing a company and if so what company.

2. The covering letter to the application from Brown & Co is inexplicably dated 19th January 2018.
3. The application dated 14th August incorrectly stated the area as 20071m² and included Certificate A noted as submitted by the Applicant but for which the agent's details were given. This was corrected in an amended application received 11th September but the original date on the form remained. It is evident that the amendments were not carried out on 14th August and the legality of the second submission is suspect.
4. If the date of the amended application is assumed to be 11th September (date of receipt), the date of Certificate A becomes invalid as it is greater than 21 days before the assumed date of the amended application.
5. The CIL Form is dated 10th August and is therefore invalid as it predates both the original and amended applications.
6. Other anomalies on the application form which appear to be inconsistent with other details submitted. Item 8 states there is no access from the public highways but there is no other way lorries can access the site to remove spoil. Item 14 states that the plans do not incorporate areas to store and aid the collection of waste – excavated subsoil for disposal off-site is a waste material at the point of extract and areas for temporary spoil heaps should be incorporated into the planning areas. Item 18 states that the development will not require the employment of staff but maintenance requirements will involve labour.

c) Have all the details in LDO condition 2.25 been satisfied?

Condition 2.25 requires agreement of the surface water strategy for the LDO site, which includes *"details of ownership and maintenance"*.

Neither of these details is apparent in the submissions by the applicant.

The issue is further complicated by the transfer of ownership for the LDO site to another company namely Food Enterprise Park Ltd with effective different land ownerships for different parts of the installation.

I note that Condimentum propose a bunded acid tank storage facility and an external paved area to store processed mint in liquid form in IBC containers for between 4 and 18 months which raises a general question that with multiple site ownerships within the LDO, how are spillages controlled and who is responsible?

d) Are the application proposals sound and have all statutory permissions?

I have previously made written submissions raising the following concerns on statutory permissions which have not been answered. [see letter ref 20181336-1 dated 25 October 2018] The committee papers state that separate consent for the formation of the lagoon and private treatment plant are required from the Environment Agency who will need to be satisfied that the ground water will not be contaminated by these proposals before they issue a licence. It must be a critical part of approval for a strategy that the proposals will work, be compliant and approved by all statutory organisations before agreement and discharge of the condition.

Both approval to the application and discharge of the condition should be withheld until written confirmation is received from the Environment Agency that the proposals will satisfy the conditions for a licence to be issued.

There is no indication of how the applicant has assessed that the temporary sewerage treatment plant will cater for 20,000m² of development. The only definitive figure which is available from the Klargestar catalogue is that the selected product caters for a maximum of 30m³ per day which is equivalent to 30,000 litres. Rossi Long Consulting suggests that this is sufficient for up to 150 people which equates to 200 litres daily per person. The details submitted for Condimentum suggests that each employee uses 100 litres per day equating to a foul water output from this site of 2,500 litres for the 25 employees.

Clearly this is understated as the numbers exclude visitors and more significantly the wastewater from the mint processes which is shown as discharging to the foul sewer. There is also a gulley discharging into the foul sewer from the milling tower without any indication what this collects. The waste water is described as "acid water" on the drawing and I would appreciate confirmation that the applicant has checked and confirmed to you that this is acceptable and will not harm the biological cleaning principles within the sewerage plant. The maximum development which can be accommodated within capacity of the sewerage treatment plant must be based on number of people employed on the site and discharges from any processes rather than a notional development area.

I understand that a permit is required to discharge cleaned waste water from a sewerage treatment plant to a surface water system and question whether this should be in place before discharge of the LDO condition.

e) Have all the technical concerns of the proposal been clarified?

I have previously made written submissions raising the following technical concerns which have not been answered or only given minimum discussion in the committee papers. [see letters ref 20181336 dated 12 October 2018 and ref 20181336 dated 25 October 2019]

The surface water infiltration relies on an isolated pocket of suitable substate which the applicant states as being determined from boreholes. Evidence of this material and its suitability for infiltration has not been made available to the public for reviewing. Unless it has been provided with this detail, Broadland should delay approval so that the information can be assessed.

There is a disjoint between the invert depths for the laterals to the north of the spine road and the drainage falls which will be required from the ground levels at the northern boundary, limiting the flexibility of development for this half of the site.

At paragraph 1.5 of the committee papers, Broadland states that the applicant has confirmed that soil arising from excavations will be spread evenly across the field adjoining the lagoon and surplus dispersed elsewhere across the applicant's agricultural holdings.

The environmental law and landfill tax obligations for construction site excavated material are complex. It is acknowledged that with the correct permission and compliance, disposal of excavated material on another site may be applicable. (Note: In this particular application the field adjoining the lagoon is excluded from the area for which permission has been submitted and therefore must be considered as another site.) Page 10

The reuse of excavated material as close to its point of origin is supported as preferable for sustainable environmental and economic principles. However, it is not acceptable at planning to assume that this is possible without a full assessment. Crucial factors which must be considered in this case are whether planning permission is granted for the proposed receptor site(s) and whether the material is suitable for its intended usage. Planning application(s) on the receptor site(s) has not been submitted nor has any analysis of the quantities and types of subsoil been carried out to establish suitability for use on agricultural land.

Disposal of excavated material is discussed at paragraph 9.14 of the committee papers. It repeats the above statement for disposal of the excavated material, adding that details have been requested and will be reported to the Committee. These details should be provided and published on the web portal before discharge of condition 2.25 can be considered or planning approval determined.

Should these major considerations prevent the intended distribution on the applicant's agricultural holdings, there are serious traffic implications which must be considered as part of this application for disposal to a licensed waste outlet. A decision on 20181336 should be deferred until these issues are resolved.

PLANNING COMMITTEE

19 December 2018

Final Papers

Page No

[Supplementary Schedule](#)

121 – 145

Attached is the Supplementary Schedule showing those representations received since the Agenda was published and other relevant information

DEMOCRATIC SERVICES

Broadland District Council

Thorpe Lodge, 1 Yarmouth Road, Norwich, NR7 0DU

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SUPPLEMENTARY SCHEDULE OF APPLICATIONS TO BE CONSIDERED

Plan No	Application No	Location	Update	Page Nos
1	20181177	Church Lane, Honingham	<p>Further comments and drawings from Easton Parish Council (previously sent to Members):</p> <p>Attached as Appendix 1.</p> <p>Further comments and drawings from 19 Aldryche Road, Norwich:</p> <p>Attached as Appendix 2.</p>	122 – 137
2	20181336	Land west of Blind Lane, Honingham	<p>Further comments from Easton Parish Council:</p> <p>Attached as Appendix 3.</p> <p>Further comments and drawings from 19 Aldryche Road:</p> <p>Attached as Appendix 4.</p>	138 – 145



Easton Parish Council

www.eastonparishcouncil.co.uk

Mr Rooke
Broadland District Council
Planning Department
Thorpe Lodge,
1 Yarmouth Road,
Norwich, NR7 0DU

13 December 2018

Dear Mr Rooke,

Re Planning Application 20181177 and Triggers for Scheme of works Under Condition 2.20 of the Local Development Order

To avoid any doubt Easton Parish Council continues to **object** to the above planning application and the triggers for the scheme until such time as all the outstanding matters raised have been satisfactory answered.

Firstly as at the time of writing this letter it is my understanding that Easton Parish Council have not officially been provided a defence by yourselves to our Judicial Review Claim and as such this places us in a very difficult position as it would now seem that the Head of Planning is attempting to defend his position by having the Planning Committee review its own decision before we have had an opportunity in the High Court to test the decisions made by the Planning Committee on the 3rd of October 2018.

We would also like to raise concern that the applicant had started to layout profiles both on their land and that owned by NCC. The Town & Country Planning Act 1990 s56(4)(d) which states that laying out any part of a road is deemed when development is begun. At present this work has stopped after the Judicial Review Claim was issued, these actions of the applicant also lead us to believe that permission had been granted by way of the discharge of the condition resolved on the 3rd of October 2018 otherwise the applicant risked enforcement action against them. Obviously they should not be starting without the discharge of the pre-commencement condition of the road improvements.

We would request that the Planning Committee defers any decisions on this application until we have had an opportunity to clarify the legal position as regards our claim.

Contact details: Cllr P Milliken Chairman, Easton Parish Council C/O 29 Woodview Road, Easton, Norwich, NR9 5EU
Tel: 01603 881035 Email: chair@eastonparishcouncil.co.uk

Should the Planning Committee be inclined once again not to heed our requests and concerns and wishes to move forward in attempting to redetermine this matter at this time, we once again point to the wording of 2.20, it is clear and unequivocal in that it relates to the whole LDO scheme and this is what must be considered to fully discharge the condition. Partial discharge for an interim proposal up to the first trigger does not discharge the full pre-commencement condition which therefore remains in place.

There is no authority within the LDO to support the recommendation of officers in the committee papers. The LDO is for 50,000m² of buildings and the proposal now limits this to 10,000m² with a pre-commencement condition on the remaining 40,000m².

It cannot be for the Planning Committee to change Council policy, it must be up to the Council as a whole to decide any amendments that are required to policy under the Local Development Order after full consultation.

We continue to be extremely concerned that you do not consider that any road improvements are necessary prior to the start of construction. It should be evident that the volumes of construction traffic required for the site infrastructure alone poses a safety risk as great as that after occupation.

We consider that a signed s278 must be conditional to approval. We consider that this legal document should cover the full requirements of the completed LDO with any acceptable interim solution and necessary triggers with an appropriate full bond with release percentages based on the triggers.

Notwithstanding these procedural observations, we do not believe that at the time of the original Planning Committee meeting on the 3rd October we were given an appropriate amount of time to consider the triggers in the context of this application (our letter dated 30 September 2018). As a decision was reached by the Planning Committee on the 3rd of October our Council time was taken up with the issuing of a Judicial Review Claim and until that claim is tested in the High Court the discussion surrounding the triggers seemed moot, however progress was being made within negotiations in relation to this matter that was due to be taken before the parish council for approval. However, as we have only been given 4 days to review and respond to the associated documents for your meeting of the 19th December, we would request an extension of time to allow the Parish Council to review its position as to the trigger points.

It is our considered view that should an extension not be granted and the planning committee approve this application at its meeting on the 19th December 2018 our legitimate expectation to have been given as a consultee a meaningful and full opportunity to respond in an informed manner has been breached. I refer you to *R v N E Devon HA ex p Coughlan* [2001] QB 213. At [108] and *R. v. Inland Revenue Commissioners, ex parte M.F.K. Underwriting Agents Ltd.*(1989) [1990] 1 W.L.R. 1545 at 1569–1570, High Court (Queen's Bench) (England & Wales)

Whilst you appear to accept that the partial discharge (phase 1) proposals are an interim solution suitable for limited occupation, we remain adamant that a full scheme should be implemented irrespective of levels of occupation as our previously reported concerns and unanswered questions, which are repeated below. (See also the joint letter dated 26th September 2018 from Marlingford and Colton and Easton)

1. The s106 agreement with the land owner restricts access to the LDO to a route from the Easton roundabout via Church Lane and Red Barn Lane. This submission restricts upgrading to Church Lane only. If it is the intention to restrict all access to the site to a single entry/egress position specifically not using Red Barn Lane, we suggest a revised S106 is required. Alternatively, should the developer wish to use another entrance either for construction purposes or an additional entrance, suitable upgrades must be considered for Red Barn Lane. The application 20181336 for the surface water lagoon and heavy engineering to the western boundary of the LDO site will add to the burden of HGVs using both Church Lane and Red Barn Lane, reinforcing the need for road improvements to the full length of the s106 route.
2. Consultation for the LDO was concerned that the s106 and road improvement should consider both construction and occupation with the timing of the various works under condition 2.20 covered by condition 2.21. We do not consider these two conditions can be dealt with separately.
3. Information provided within various submissions concerning these works suggests that the applicant considers the proposals are temporary in nature on the assumption that a permanent direct access from the A47 will replace this route. This is by no means certain and the section 278 works must be considered as the permanent permitted access solution to the LDO site. If and when definitive proposals and timescales for the A47 become certain, revisions and downgrades to these proposals may be considered appropriate as dictated by the agreed timing of the works under condition 2.21.
4. Of the six elements under condition 2.20, the first two, "Realignment/change of priority at the junction of Dereham Road/Church Lane" and "A right turn lane from Dereham Road into Church Lane" are alleged as not necessary at this time due to the modest traffic movements. The applicant does not evidence the reasoning or changes which underline this statement. The intention of condition 2.20 is for the design to reflect the full capacity and total traffic usage for the LDO site. Any phasing of the highway works to suit the occupation phasing is a matter for condition 2.21. It is understood that the reference to modest traffic movements relates to the proposal for a Milling Plant as the first occupant. This is irrelevant to condition 2.20 which should address full occupancy and site construction traffic, which is likely to be extensive from day one.
5. Element six, the closure of Blind Lane is alleged as not necessary at this time due to the uncertainty of the proposed A47 dualling works. Again, this can only be considered if and when definitive proposals for the A47 and

timescales become certain. In the interim the situation as assessed by NCC at the time of the LDO consultation remains.

6. What is the precedent for passing bays on a permitted HGV route? We consider that the precedent is for a 6.5m wide carriageway established under planning application 20050708 for the adopted length of Grange Lane in the access to Honingham Thorpe Farm. This historic application noted the intention of this new road was a more direct access to the Easton roundabout (and A47) for farm traffic including caterpillar tractors, combined harvesters, sugar beet lorries and potato lorries, from Honingham Thorpe Farm. The LDO site will add to this volume of HGV traffic which is not given any consideration in this S278 design nor appears to have been considered in the original EIA Screening Opinion for the LDO.
7. A 1.5m wide trod is inadequate as the solution to pedestrian and cycling access to the site. The precedent of a 3m wide trod is established by South Norfolk in the details for the 890 homes at Easton. The proposed 1.5m width does not even allow for cyclists passing. The minimum width recommended by Sustrans Handbook for Cycle Friendly Design is 2.5m to allow cyclists to safely pass. With the shared pedestrian usage, we support South Norfolk in its requirement for 3m wide pathways.
8. The trod simply stops at the junction of the new site entrance and there are no details how pedestrian and cycle access within the development to individual plots is to be affected. The proposals are simply paying lip service to the provisions of the NCC Walking and Cycling Strategy which promotes encouraging people to walk and cycle under planning as its statement “New developments, both housing and employment, provide the opportunity to create attractive environments and to build in coherent, convenient and safe links for walking and cycling.”
9. Notwithstanding our concerns regarding the inadequacy of a series of passing bays, we do not consider shared use of these with cyclists and pedestrians using the trod to be acceptable. Cyclists and pedestrians must be kept separate from motor vehicles and HGVs. It is now our understanding that Liz Poole, Principal Engineer at Norfolk County Council has concurred with our position in an email sent on the 4 October 2018 (see attachment LP041018).
10. Drainage to the passing bays is proposed by a SUDs system of soakaways. The drainage assessment for the LDO concluded that “the ground conditions are not suitable for infiltration drainage”. We query whether further checks have been carried out to establish different conditions on the road verges to those encountered on the LDO site which allows this solution.
11. The visibility splay east of the new entrance notes that for the majority of its 125m length the existing hedge will have to be removed and replanted. Please confirm that all necessary permits for changes of the highway boundary and consultations with South Norfolk have been agreed under the Hedgerow Regulations.

12. The visibility splays at the proposed entrance appears to be designed for vehicles exiting the site only but does not consider other traffic at the bend on the existing highway. The wide area of verge at the bend of a narrow rural road provides visibility for traffic, legally travelling at up to 60mph, to see vehicles approaching from the opposite direction. This principle is negated by 16.5m long articulated lorries exiting the site and obscuring these lines of sight. There are other issues which are particular to Easton village. A number of illustrations have been created to help visualise our concerns (see attachment Road Safety Concerns)

The current designs as submitted by the Head of Planning which have been submitted for approval are to our understanding out of date as they were considered unsafe and as such a totally revised set of drawings have now been prepared given that new drawings are now available Easton Parish Council would request that these plans are placed in the public domain as the original plans where and the public and ourselves are given the opportunity to consult on them.

It is our considered view that should these plans not be made available for public scrutiny and should a suitable amount of time not be granted for consultation and the planning committee approve this application at its meeting on the 19th December 2018 our legitimate expectation to have been given as a consultee a meaningful and full opportunity to respond in an informed manner has been breached. I refer you to *R v N E Devon HA ex p Coughlan* [2001] QB 213. At [108] and *R. v. Inland Revenue Commissioners, ex parte M.F.K. Underwriting Agents Ltd.*(1989) [1990] 1 W.L.R. 1545 at 1569–1570, High Court (Queen's Bench) (England & Wales)

Should the Planning Committee fail to heed our concerns on the above point we give comment on the existing plans which are currently regarded by NCC Highways as not considered safe.

13. The proposals to cater for HGVs in the vicinity the Grade 1 Listed Church of St Peter are in conflict with ENP policies 1 and 4. The proposal (marked insert A, drawing no CL-1010 Rev P3) indicates that a critical part of the existing screening will be removed and would potentially lead to degradation in the setting of the Church.
14. The issue of car parking at the church is set out in the letter of 23rd July 2018 is not considered in the submission. Should the current proposal be agreed it will make the area around the church dangerous for anyone trying to visit.
15. With regard to insert B drawing no CL-1010 Rev P3 which shows a pram crossing, given the proximity to the bend a more formal approach to crossing the road at this point needs to be constructed. We believe in the interests of safety for pedestrians who have difficulty crossing a road within a few seconds a better solution is required at this position where vehicles are still decelerating out of the 60mph zone.

16. Application 20181336 shows the site access with a footpath to one side which is not shown on application 20181177. Will this application be amended to allow pedestrian access to the site?
17. Does this application need to be reconsidered against the extra site traffic associated with the lagoon, which has been submitted as partial discharge of condition 2.27, along Red Barn Lane as the permitted route under the s106 Agreement?
18. Has the request from Marlingford and Colton Parish Council that the proposed exit from the site be restricted to left-turn only for HGV's been agreed? It is our understanding that the current view of M&CPC is that the existing skew of this entrance and a weight restriction on the road would be acceptable, however we have not seen this in writing within the papers which will be before the Planning Committee.

I await your urgent response.

Yours sincerely

Cllr Peter Milliken
Chair Easton Parish Council

Matthew Rooke

From: Poole, Liz <liz.poole@norfolk.gov.uk>
Sent: 04 October 2018 09:52
To: Matthew Rooke
Subject: RE: food hub

Hi Matt

Thank you for the email and I'm glad that the trigger was approved.

The off-site works were required as part of the LDO which included pedestrian/cycle facilities and was approved. The land is not an issue as it will become highway land once it is built and dedicated to the highway authority. So the scheme that will be constructed is that which includes the trod behind the passing bays as the other scheme was not considered safe and so a revised scheme was required.

I don't think this should affect the planning approval gained yesterday.

Liz

Liz Poole, Principal Engineer (Major and Estate Development)

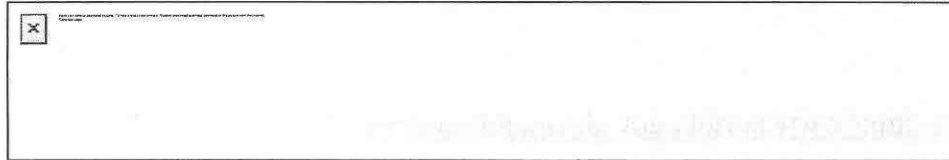
Community and Environmental Services

Tel: 01603 638009

County Hall, Martineau Lane, Norwich, NR1 2SG



Norfolk County Council



From: Matthew Rooke [mailto:matthew.rooke@broadland.gov.uk]

Sent: 04 October 2018 09:11

To: Poole, Liz <liz.poole@norfolk.gov.uk>

Subject: food hub

Liz

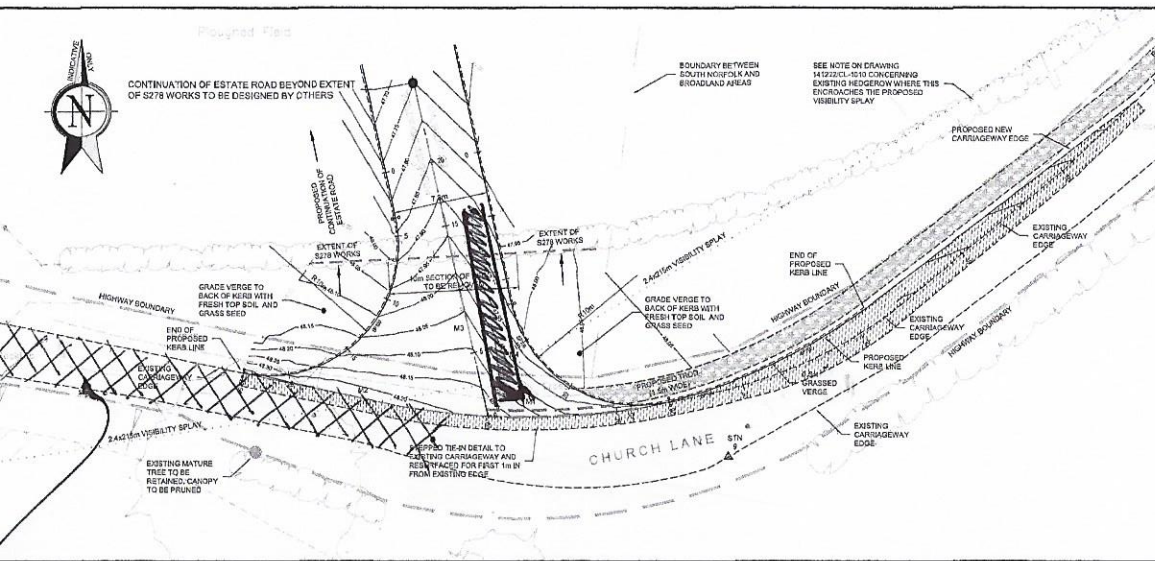
I know you were in with Phil yesterday and I was going to catch you when you left, but I left before you!

Phil may have mentioned that our Planning Committee resolved to approve the highway works along Church Lane under condition 2.20 yesterday, as well as the mill building and lagoon. Many thanks for your help in getting the details together on this.

On the highway works for condition 2.20 I agreed with James Alston to present to Committee the original proposals for the TROD running up to the passing places on Church Lane NOT a continuous route behind them as the continuous route takes the TROD beyond the highway boundary into the Alston's land which is in South Norfolk – I didn't want to complicate matters and James agreed.

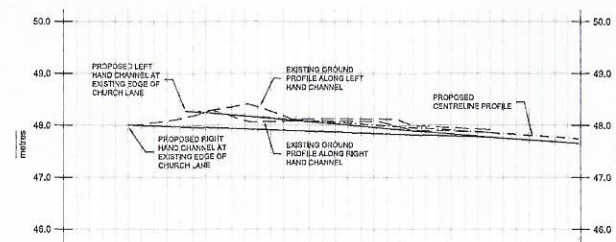
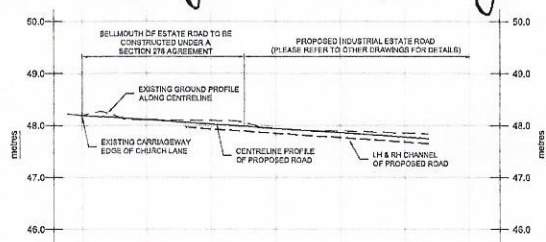
Therefore the approved scheme is for the TROD to stop at each passing bay.

SS Appendix 1



SAFETY, HEALTH AND ENVIRONMENTAL INFORMATION BOX NOTES: THIS DRAWING IS TO BE READ IN CONJUNCTION WITH THE RISK REGISTER PRODUCED FOR INCLUSION IN THE HEALTH AND SAFETY PLAN. THE HAZARDS NOTED ARE IN ADDITION TO THE NORMAL HAZARDS AND RISKS FACED BY A COMPETENT CONTRACTOR WHEN DEALING WITH THE TYPE OF WORKS DETAILED ON THIS DRAWING.	
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P1	PROPOSED THREE ADDED HIGHWAY BOUNDARY ADJUSTED	02/07/18	PL	
P2	DRAWING AMENDED FOR RELOCATED POSITION OF BELLMOUTH OUT OF SOUTH NORFOLK DC AREA	20/06/18	PL	
P3	FIRST ISSUE FOR APPROVAL/COMMENT	12/03/18	PL	
REV	DESCRIPTION	DATE	BY	AUTH

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CLIENT
IAN ALSTON

PROJECT
NORFOLK FOOD HUB CHURCH LANE, EASTON

TITLE
DETAILS OF JUNCTION FOR PROPOSED ESTATE ROAD WITH CHURCH LANE

DRAWN	AUTHORISED	DATE	SCALE AT A1
PL		12/03/18	1:200 (h); 1:50 (v)
PROJECT NO.	DRAWING NO.	REV	
141222	CL-1011	P3	

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GOOGLE
2008



GOOGLE
2012



14th December 2018

Submission to Planning Committee
19 December 2018

Re Discharge of Planning Condition 2.20 [20181177]

I would like to confirm that although I opposed the creation of the FEZ, my continued engagement is to ensure that the democratically determined principles and conditions of the LDO are adhered to. It must be remembered that the LDO is Development Plan Document of the Council realising the ambitions set out in the joint Food Hub Supplementary Planning Documents (SPDs) of Broadland & South Norfolk districts local planning areas for the Food and Farming Hub as set out in the JCS.

There are additional planning principles applying to Development Plan Documents in addition to general planning requirements.

I am concerned that despite having a year to fully explore and propose solutions, Broadland are now trying to rush both this and the lagoon applications at the expense of these principles.

In the case of the highway improvements the conditions under 2.20 and 2.21 are explicit but at paragraph 3.4 of the latest (third) committee report the Head of Planning states that *"Members are also advised that there is nothing in condition 2.20 which prohibits an interim highway scheme being approved and the condition makes it clear that a variance to the six specified elements stated in the condition can be agreed in writing with the Local Planning Authority"*.

Changes to planning conditions are outlined at Section 73 of the Town and Country Planning Act 1990. These applications for changes in conditions are deemed as new applications requiring a new EIA screening. The Applicant has not made such a submission but merely sought, as stated in the covering e-mail, *"a partial approval of the details"*. No doubt planning lawyers can argue whether this constitutes a request for a change under section 73 or a written request for discharge of the condition.

A revision to a planning condition of an LDO also raises the question of authority.

A LDO, as outlined in section 61A of the Town & Country Planning Act 1990, is a process for implementation of a policy in a Development Plan Document. In this case the LDO realises the ambitions set out in the joint Food Hub Supplementary Planning Documents (SPDs) for Broadland & South Norfolk districts local planning areas for the Food and Farming Hub as set out in the JCS.

Part Three of Broadland's Constitution dated 1 October 2018 under "Powers Reserved for the Council"; section 13.1 lists functions that only the council will exercise. Sub-section (50) is defined as *"powers and duties relating to local development documents (including supplementary planning documents) under sections 20-23 and 25, 26 and 28 of the Planning and Compulsory Purchase Act 2004"*.

Reference to Section 26 (1) of that Act establishes that *"The LPA may at any time prepare a revision to a local development document"*.

The planning committee has no power to consider an application requiring a change to the LDO as this is a reserved power for the Council.

I fail to understand the relevance of paragraph 3.3. The problem is easily resolvable by conditioning the triggers under condition 2.21 to the cumulative published traffic flows as the development is built out and not to an arbitrary floor area of development.

Not all the statements at paragraph 3.5 of the third committee report are factually correct.

The submission does not include five out of the six elements of condition 2.20 in the submitted scheme as stated. There are no statements or proposals for the 1st, 2nd and 6th bullet points. The covering e-mail states against these three elements *“Due to the modest proposed traffic movements, highway engineers have confirmed that this is **not necessary at this time**”*. (emphasis added) This is simply a trigger for the interim scheme.

Only the 4th element, the site entrance can be regarded as met in full, although there are still outstanding questions concerning how the Trod will link with the site footpaths.

Whilst I agree that the environmental impact of a full widening of Church Lane may be greater than the interim trigger as currently proposed, this does not satisfy the requirement of the condition to agree the scheme for the full development.

I am pleased to note the comment in this paragraph that a 3m wide ped/cycle path is in-part the anticipated highway scheme to serve the entire LDO site. Unfortunately, like the Brexit backstop, this has no legal standing.

The statement at paragraph 3.9 that *“Members have now been presented with the relevant documents in this report”* patently ignores pertinent facts known to officers.

In particular I refer to revised drawings 141222CL_1010 P7 dated 10.10.2018 and 141222CL_1015 P4 dated 12.10.2018. [The web portal and these recommendations still list revision P3 of the first drawing and fails to list the second.]

The revisions were known by officers at the time of the 3 October planning meeting. An e-mail from Matthew Rooke to Liz Poole at Highways Authority dated 4 October 2018 admitted *“I agreed with James Alston to present the Committee with the original proposals for the TROD running up to the passing bays on Church Lane NOT a continuous route behind them as the continuous route takes the TROD beyond the highway boundary into the Alston’s land which is in South Norfolk – I didn’t want to complicate matters and James agreed. Therefore the approved scheme is for the TROD to stop at each passing bay”*.

The reply from Liz Poole replied *“The land is not an issue as it will become Highway land once it is built and dedicated to the highway authority. So the scheme which will be constructed is that which includes the Trod behind the passing bays as the **other scheme was not considered safe and so a revised scheme was required**”*. (emphasis added)

The Trod near the church has also been changed to the south side of Church Lane, I understand because of land ownership issues.

The recommendation of the 3 October 2018, which is endorsed in this third report, is for an unsafe proposal which officers are aware will not be constructed. At the date of this letter, these revisions are not published on the web portal and it must be assumed unknown to the Planning Committee.

I have previously questioned the safety aspect of positioning the entrance on the bend at the junction of Church Lane and Red Barn Lane which is not addressed in the third committee report. To inform the committee of my concerns I attach photographic downloads from Google with superimposed HGVs (roughly to scale) showing the restricted visibility for traffic travelling

at up to 60 mph on these roads, remembering that the combined breaking distance of cars from opposite directions as the Highway Code is 146m (2 x 73m).

There is no reason why conditions 2.20 and 2.21 cannot be determined as drafted in the LDO with a full scheme assuming a solution specific for HGV traffic as Norfolk County Council design guides with interim solutions to cater for cumulative predicted and/or actual traffic usage.

I remain of the opinion that an interim solution only does not satisfy the conditions of the LDO. At paragraph 3.7, it is argued that condition 2.20 *“allows for a variance of the six bullet points to be agreed in writing”*.

The Planning Committee needs to consider the intention behind the inclusion of the phrase *“unless otherwise agreed in writing with the planning authority”* in the drafting of this condition on which paragraph 3.7 relies.

At this juncture I do not wish to be embroiled in legal discussions and rely on the Planning Committee to make its determination on whether this simply means the officers can amend as they see fit, it anticipates and allows for changes under Section 73 or for changes by the Council as a revision to a Development Plan Document.

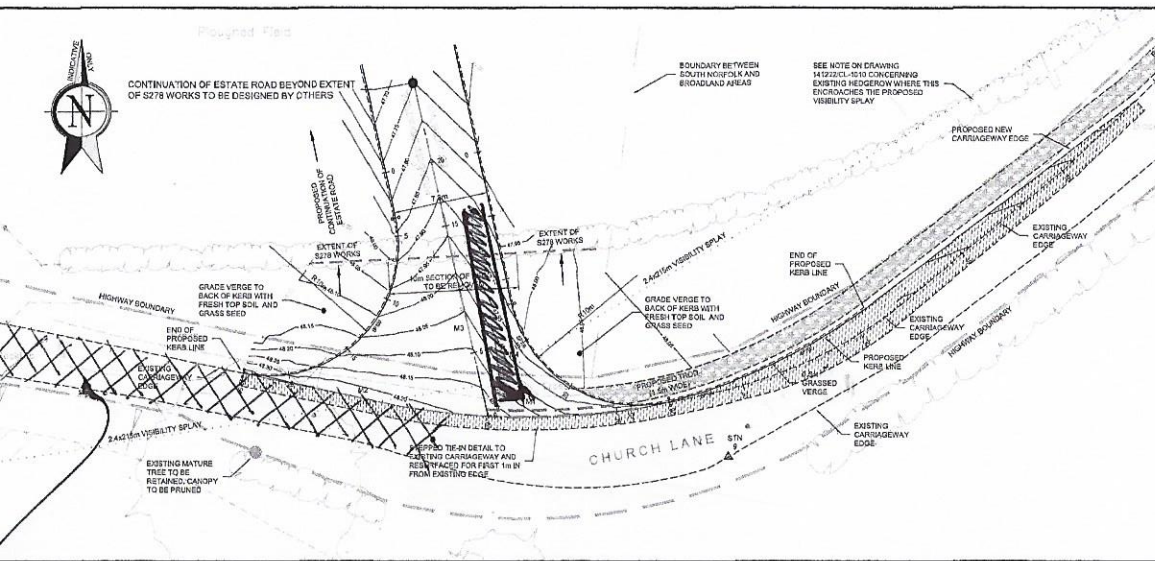
Finally, discharge of the condition will be dependent upon the signing of a S278 agreement and I consider that this document, at least in draft form should be available to the Planning Committee to make any decision.

Noting the recent transfer of land ownership for the LDO site from William Young (Dereham) Limited to Food Enterprise Park Limited in September 2018, it is assumed that the signatory company to the S278 document will align with that of the S106 Agreement, also assuming the change of ownership has been notified to Broadland. I am not aware of notification of ownership change published on the register of S106 Agreements maintained by Broadland. My understanding is that Councils have a duty to include revisions to S106 documents on the register.

Yours sincerely,

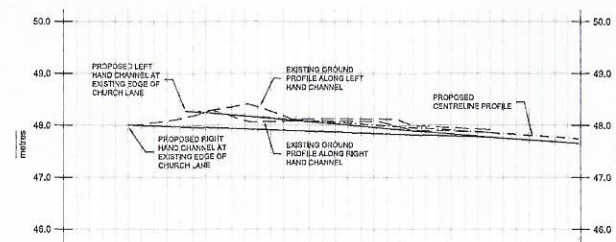
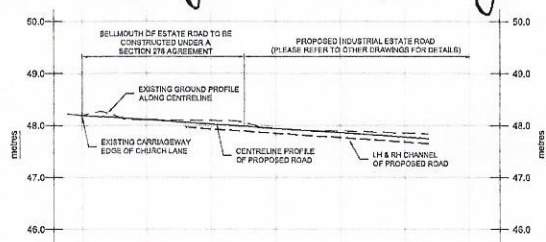
Bryan Robinson

SS Appendix 2



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REV	DESCRIPTION	DATE	BY	AUTH

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IAN ALSTON

PROJECT
NORFOLK FOOD HUB CHURCH LANE, EASTON

TITLE
DETAILS OF JUNCTION FOR PROPOSED ESTATE ROAD WITH CHURCH LANE

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DATUM 45.00mAD	
CHAINAGE (m)	0.000 5.000 10.000 15.000 20.000 25.000 30.000
EXISTING GROUND LEVEL (m)	46.166 46.254 46.331 46.412 46.495 46.578 46.659 46.740 46.821 46.902 46.983 47.064 47.145 47.226 47.307 47.388 47.469 47.550 47.631 47.712 47.793 47.874 47.955 48.036 48.117 48.198 48.279 48.360 48.441 48.522 48.603 48.684 48.765 48.846 48.927 49.008 49.089 49.170 49.251 49.332 49.413 49.494 49.575 49.656 49.737 49.818 49.899 49.980 50.061 50.142 50.223 50.304 50.385 50.466 50.547 50.628 50.709 50.790 50.871 50.952 51.033 51.114 51.195 51.276 51.357 51.438 51.519 51.600 51.681 51.762 51.843 51.924 52.005 52.086 52.167 52.248 52.329 52.410 52.491 52.572 52.653 52.734 52.815 52.896 52.977 53.058 53.139 53.220 53.301 53.382 53.463 53.544 53.625 53.706 53.787 53.868 53.949 54.030 54.111 54.192 54.273 54.354 54.435 54.516 54.597 54.678 54.759 54.840 54.921 55.002 55.083 55.164 55.245 55.326 55.407 55.488 55.569 55.650 55.731 55.812 55.893 55.974 56.055 56.136 56.217 56.298 56.379 56.460 56.541 56.622 56.703 56.784 56.865 56.946 57.027 57.108 57.189 57.270 57.351 57.432 57.513 57.594 57.675 57.756 57.837 57.918 58.000 58.081 58.162 58.243 58.324 58.405 58.486 58.567 58.648 58.729 58.810 58.891 58.972 59.053 59.134 59.215 59.296 59.377 59.458 59.539 59.620 59.701 59.782 59.863 59.944 60.025 60.106 60.187 60.268 60.349 60.430 60.511 60.592 60.673 60.754 60.835 60.916 61.000 61.081 61.162 61.243 61.324 61.405 61.486 61.567 61.648 61.729 61.810 61.891 61.972 62.053 62.134 62.215 62.296 62.377 62.458 62.539 62.620 62.701 62.782 62.863 62.944 63.025 63.106 63.187 63.268 63.349 63.430 63.511 63.592 63.673 63.754 63.835 63.916 64.000 64.081 64.162 64.243 64.324 64.405 64.486 64.567 64.648 64.729 64.810 64.891 64.972 65.053 65.134 65.215 65.296 65.377 65.458 65.539 65.620 65.701 65.782 65.863 65.944 66.025 66.106 66.187 66.268 66.349 66.430 66.511 66.592 66.673 66.754 66.835 66.916 67.000 67.081 67.162 67.243 67.324 67.405 67.486 67.567 67.648 67.729 67.810 67.891 67.972 68.053 68.134 68.215 68.296 68.377 68.458 68.539 68.620 68.701 68.782 68.863 68.944 69.025 69.106 69.187 69.268 69.349 69.430 69.511 69.592 69.673 69.754 69.835 69.916 70.000 70.081 70.162 70.243 70.324 70.405 70.486 70.567 70.648 70.729 70.810 70.891 70.972 71.053 71.134 71.215 71.296 71.377 71.458 71.539 71.620 71.701 71.782 71.863 71.944 72.025 72.106 72.187 72.268 72.349 72.430 72.511 72.592 72.673 72.754 72.835 72.916 73.000 73.081 73.162 73.243 73.324 73.405 73.486 73.567 73.648 73.729 73.810 73.891 73.972 74.053 74.134 74.215 74.296 74.377 74.458 74.539 74.620 74.701 74.782 74.863 74.944 75.025 75.106 75.187 75.268 75.349 75.430 75.511 75.592 75.673 75.754 75.835 75.916 76.000 76.081 76.162 76.243 76.324 76.405 76.486 76.567 76.648 76.729 76.810 76.891 76.972 77.053 77.134 77.215 77.296 77.377 77.458 77.539 77.620 77.701 77.782 77.863 77.944 78.025 78.106 78.187 78.268 78.349 78.430 78.511 78.592 78.673 78.754 78.835 78.916 79.000 79.081 79.162 79.243 79.324 79.405 79.486 79.567 79.648 79.729 79.810 79.891 79.972 80.053 80.134 80.215 80.296 80.377 80.458 80.539 80.620 80.701 80.782 80.863 80.944 81.025 81.106 81.187 81.268 81.349 81.430 81.511 81.592 81.673 81.754 81.835 81.916 82.000 82.081 82.162 82.243 82.324 82.405 82.486 82.567 82.648 82.729 82.810 82.891 82.972 83.053 83.134 83.215 83.296 83.377 83.458 83.539 83.620 83.701 83.782 83.863 83.944 84.025 84.106 84.187 84.268 84.349 84.430 84.511 84.592 84.673 84.754 84.835 84.916 85.000 85.081 85.162 85.243 85.324 85.405 85.486 85.567 85.648 85.729 85.810 85.891 85.972 86.053 86.134 86.215 86.296 86.377 86.458 86.539 86.620 86.701 86.782 86.863 86.944 87.025 87.106 87.187 87.268 87.349 87.430 87.511 87.592 87.673 87.754 87.835 87.916 88.000 88.081 88.162 88.243 88.324 88.405 88.486 88.567 88.648 88.729 88.810 88.891 88.972 89.053 89.134 89.215 89.296 89.377 89.458 89.539 89.620 89.701 89.782 89.863 89.944 90.025 90.106 90.187 90.268 90.349 90.430 90.511 90.592 90.673 90.754 90.835 90.916 91.000 91.081 91.162 91.243 91.324 91.405 91.486 91.567 91.648 91.729 91.810 91.891 91.972 92.053 92.134 92.215 92.296 92.377 92.458 92.539 92.620 92.701 92.782 92.863 92.944 93.025 93.106 93.187 93.268 93.349 93.430 93.511 93.592 93.673 93.754 93.835 93.916 94.000 94.081 94.162 94.243 94.324 94.405 94.486 94.567 94.648 94.729 94.810 94.891 94.972 95.053 95.134 95.215 95.296 95.377 95.458 95.539 95.620 95.701 95.782 95.863 95.944 96.025 96.106 96.187 96.268 96.349 96.430 96.511 96.592 96.673 96.754 96.835 96.916 97.000 97.081 97.162 97.243 97.324 97.405 97.486 97.567 97.648 97.729 97.810 97.891 97.972 98.053 98.134 98.215 98.296 98.377 98.458 98.539 98.620 98.701 98.782 98.863 98.944 99.025 99.106 99.187 99.268 99.349 99.430 99.511 99.592 99.673 99.754 99.835 99.916 100.000
HORIZONTAL ALIGNMENT	0.000 25.000 25.000 30.000
VERTICAL ALIGNMENT CHAINAGE & LEVEL	0.000 25.000 25.000 30.000
LEFT HAND CHANNEL (m)	46.166 46.172 46.178 46.184 46.190 46.196 46.202 46.208 46.214 46.220 46.226 46.232 46.238 46.244 46.250 46.256 46.262 46.268 46.274 46.280 46.286 46.292 46.298 46.304 46.310 46.316 46.322 46.328 46.334 46.340 46.346 46.352 46.358 46.364 46.370 46.376 46.382 46.388 46.394 46.400 46.406 46.412 46.418 46.424 46.430 46.436 46.442 46.448 46.454 46.460 46.466 46.472 46.478 46.484 46.490 46.496 46.502 46.508 46.514 46.520 46.526 46.532 46.538 46.544 46.550 46.556 46.562 46.568 46.574 46.580 46.586 46.592 46.598 46.604 46.610 46.616 46.622 46.628 46.634 46.640 46.646 46.652 46.658 46.664 46.670 46.676 46.682 46.688 46.694 46.700 46.706 46.712 46.718 46.724 46.730 46.736 46.742 46.748 46.754 46.760 46.766 46.772 46.778 46.784 46.790 46.796 46.802 46.808 46.814 46.820 46.826 46.832 46.838 46.844 46.850 46.856 46.862 46.868 46.874 46.880 46.886 46.892 46.898 46.904 46.910 46.916 46.922 46.928 46.934 46.940 46.946 46.952 46.958 46.964 46.970 46.976 46.982 46.988 46.994 47.000 47.006 47.012 47.018 47.024 47.030 47.036 47.042 47.048 47.054 47.060 47.066 47.072 47.078 47.084 47.090 47.096 47.102 47.108 47.114 47.120 47.126 47.132 47.138 47.144 47.150 47.156 47.162 47.168 47.174 47.180 47.186 47.192 47.198 47.204 47.210 47.216 47.222 47.228 47.234 47.240 47.246 47.252 47.258 47.264 47.270 47.276 47.282 47.288 47.294 47.300 47.306 47.312 47.318 47.324 47.330 47.336 47.342 47.348 47.354 47.360 47.366 47.372 47.378 47.384 47.390 47.396 47.402 47.408 47.414 47.420 47.426 47.432 47.438 47.444 47.450 47.456 47.462 47.468 47.474 47.480 47.486 47.492 47.498 47.504 47.510 47.516 47.522 47.528 47.534 47.540 47.546 47.552 47.558 47.564 47.570 47.576 47.582 47.588 47.594 47.600 47.606 47.612 47.618 47.624 47.630 47.636 47.642 47.648 47.654 47.660 47.666 47.672 47.678 47.684 47.690 47.696 47.702 47.708 47.714 47.720 47.726 47.732 47.738 47.744 47.750 47.756 47.762 47.768 47.774 47.780 47.786 47.792 47.798 47.804 47.810 47.816 47.822 47.828 47.834 47.840 47.846 47.852 47.858 47.864 47.870 47.876 47.882 47.888 47.894 47.900 47.906 47.912 47.918 47.924 47.930 47.936 47.942 47.948 47.954 47.960 47.966 47.972 47.978 47.984 47.990 47.996 48.000
CENTRE LINE (m)	46.166 46.172 46.178 46.184 46.190 46.196 46.202 46.208 46.214 46.220 46.226 46.232 46.238 46.244 46.250 46.256 46.262 46.268 46.274 46.280 46.286 46.292 46.298 46.304 46.310 46.316 46.322 46.328 46.334 46.340 46.346 46.352 46.358 46.364 46.370 46.376 46.382 46.388 46.394 46.400 46.406 46.412 46.418 46.424 46.430 46.436 46.442 46.448 46.454 46.460 46.466 46.472 46.478 46.484 46.490 46.496 46.502 46.508 46.514 46.520 46.526 46.532 46.538 46.544 46.550 46.556 46.562 46.568 46.574 46.580 46.586 46.592 46.598 46.604 46.610 46.616 46.622 46.628 46.634 46.640 46.646 46.652 46.658 46.664 46.670 46.676 46.682 46.688 46.694 46.700 46.706 46.712 46.718 46.724 46.730 46.736 46.742 46.748 46.754 46.760 46.766 46.772 46.778 46.784 46.790 46.796 46.802 46.808 46.814 46.820 46.826 46.832 46.838 46.844 46.850 46.856 46.862 46.868 46.874 46.880 46.886 46.892 46.898 46.904 46.910 46.916 46.922 46.928 46.934 46.940 46.946 46.952 46.958 46.964 46.970 46.976 46.982 46.988 46.994 47.000 47.006 47.012 47.018 47.024 47.030 47.036 47.042 47.048 47.054 47.060 47.066 47.072 47.078 47.084 47.090 47.096 47.102 47.108 47.114 47.120 47.126 47.132 47.138 47.144 47.150 47.156 47.162 47.168 47.174 47.180 47.186 47.192 47.198 47.204 47.210 47.216 47.222 47.228 47.234 47.240 47.246 47.252 47.258 47.264 47.270 47.276 47.282 47.288 47.294 47.300 47.306 47.312 47.318 47.324 47.330 47.336 47.342 47.348 47.354 47.360 47.366 47.372 47.378 47.384 47.390 47.396 47.402 47.408 47.414 47.420 47.426 47.432 47.438 47.444 47.450 47.456 47.462 47.468 47.474 47.480 47.486 47.492 47.498 47.504 47.510 47.516 47.522 47.528 47.534 47.540 47.546 47.552 47.558 47.564 47.570 47.576 47.582 47.588 47.594 47.600 47.606 47.612 47.618 47.624 47.630 47.636 47.642 47.648 47.654 47.660 47.666 47.672 47.678 47.684 47.690 47.696 47.702 47.708 47.714 47.720 47.726 47.732 47.738 47.744 47.750 47.756 47.762 47.768 47.774 47.780 47.786 47.792 47.798 47.804 47.810 47.816 47.822 47.828 47.834 47.840 47.846 47.852 47.858 47.864 47.870 47.876 47.882 47.888 47.894 47.900 47.906 47.912 47.918 47.924 47.930 47.936 47.942 47.948 47.954 47.960 47.966 47.972 47.978 47.984 47.990 47.996 48.000
RIGHT HAND CHANNEL (m)	47.262 47.268 47.274 47.280 47.286 47.292 47.298 47.304 47.310 47.316 47.322 47.328 47.334 47.340 47.346 47.352 47.358 47.364 47.370 47.376 47.382 47.388 47.394 47.400 47.406 47.412 47.418 47.424 47.430 47.436 47.442 47.448 47.454 47.460 47.466 47.472 47.478 47.484 47.490 47.496 47.502 47.508 47.514 47.520 47.526 47.532 47.538 47.544 47.550 47.556 47.562 47.568 47.574 47.580 47.586 47.592 47.598 47.604 47.610 47.616 47.622 47.628 47.634 47.640 47.646 47.652 47.658 47.664 47.670 47.676 47.682 47.688 47.694 47.700 47.706 47.712 47.718 47.724 47.730 47.736 47.742 47.748 47.754 47.760 47.766 47.772 47.778 47.784 47.790 47.796 47.802 47.808 47.814 47.820 47.826 47.832 47.838 47.844 47.850 47.856 47.862 47.868 47.874 47.880 47.886 47.892 47.898 47.904 47.910 47.916 47.922 47.928 47.934 47.940 47.946 47.952 47.958 47.964 47.970 47.976 47.982 47.988 47.994 48.000
PROPOSED CAMBER/CROSS FALLS	CAMBER 1/40 (2.50%)

LONGITUDINAL SECTION FOR START OF PROPOSED ESTATE ROAD
SCALE: 1:200(h); 1:50(v)



GOOGLE
2008



GOOGLE
2012





Easton Parish Council

www.eastonparishcouncil.co.uk

Mr Rooke
Broadland District Council
Planning Department
Thorpe Lodge,
1 Yarmouth Road,
Norwich, NR7 0DU

14 December 2018

Dear Mr Rooke,

Re Planning Application 20181336

To avoid any doubt Easton Parish Council continues to **object** to the above planning application until such time as all outstanding matters have been addressed and the deliverability of the scheme is proven.

Firstly as at the time of writing this letter it is my understanding that Easton Parish Council have not officially been provided a defence by yourselves to our Judicial Review Claim and as such this places us in a very difficult position as it would now seem that the Head of Planning is attempting to defend his position by having the Planning Committee review its own decision before we have had an opportunity in the High Court to test the decisions made by the Planning Committee on the 3rd of October 2018.

We continue to contend that this application is an extension to an existing permission, which is the site of the Local Development Order (LDO). The sole use of the lagoon is to effect the LDO and therefore we would argue is an extension to the LDO which we believe should be a decision for the full Council and a further public consultation. You must appreciate that any intention that this application is a revision to or a further Development Order proposal has implications of pre-consultation under the Localism Act, reinforcing the need to invalid this application.

Brown & Co stated in a letter dated 17th September 2018 that the proposal would fall within the scope of paragraph 13(b) of Schedule 2 of the 2017 EIA Regulations as an extension to an authorised industrial estate project (paragraph 10(a)), namely the LDO site. The proposal would exceed the relevant threshold criteria in column 2 as the site exceeds the 0.5 hectare threshold for industrial estate project.

We understand that it is still your contention that this scheme falls under Category 10(b) of Schedule 2 – “Urban development projects, which including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas” which is at odds with the developers interpretation of the proposal.

Contact details: Cllr P Milliken Chairman, Easton Parish Council C/O 29 Woodview Road, Easton, Norwich, NR9 5EU
Tel: 01603 881035 Email: chair@eastonparishcouncil.co.uk

It was clear from the Planning Committee meeting on the 3rd October 2018 that the legal advice provided on the day lacked authoritative detail and was an attempt to make light of the important questions being asked.

Until such time as the legal standing of this application has been proven we would suggest to the Planning Committee that a discretionary cautious approach should be adopted in relation to deciding the validity of this application and that counsels' option is sought and published to bring clarity to this matter.

We would request that the Planning Committee does not delegate its authority to the Head of Planning and retains sole decision-making power over this application until such time as the legal standing of this application is confirmed and if the Planning Committee has the legal right to determine its outcome.

Notwithstanding the points raised above we would remind the Planning Committee that the Environmental Health Officer for Broadland has stated that the Applicant should provide evidence to show that septicity and subsequent odour will not arise before planning permission is granted for this type of discharge. It is our understanding to date no evidence has been provided.

We still have major concerns in relation to the disposal of foul water and the installation of a temporary private treatment plant. We would look to be assured that any plant is designed to cater for employee and visitor numbers which are in line with your job creation report to Defra as part of the LDO process.

We would also like to suggest that the following conditions are added to any final decision that is made.

1. All permissions must be obtained for the disposal of arisings from site before work commences, ie. a pre-commencement condition.
2. A written agreement that no public highway is to be used for the movement of arisings as the stated intention of the Applicant.
3. A bond payable to ensure compliance with the removal of the private treatment plant and its associated infrastructure once the first 20,000sq. m of development floorspace has been achieved or 5 years after commissioning whichever is the sooner. This is in an effort to give full comfort that this is a temporary measure and not a long-term solution should suitable enterprise not be attracted to the development site.

We continue to have concerns as to the disposal of arisings from the excavation of the lagoon as highlighted in our Statement of Grounds and Facts which formed part of our Judicial Review Claim. The Head of Planning relies on advice from the Council's QC that "spreading of soil does not need any further permission under the planning regime" and uses *R (Birch) v Barnsley MBC* [2010] EWCA Civ 1180. We are awaiting our Counsel's option on this as it would seem that the case quoted resulted in the quashing of a planning permission.

In this matter Planning permission had been granted for the composting of green waste which was to be spread on arable land. In his screening opinion the planning

officer concluded that an EIA was not required because the development did not fall into the descriptions in Schedule 2 to the EIA Regulations.

Planning permission was quashed on the basis that, in deciding whether or not the development fell within Schedule 2 of the EIA Regulations, the local planning authority had failed to adequately consider whether the composted material might amount to waste, such that the spreading of the compost would amount to waste disposal rather than an agricultural process for which planning permission would not be required.

In deciding whether the proposals were likely to have significant environmental effects the planning authority had to consider not only the characteristics of each part of the proposed development but also its overall effects. The spreading operation could be ignored for the purposes of the screening opinion only if planning conditions had been suggested which would ensure the quality of the composted material spread so it could not be considered to be waste. The screening opinion offered no view on how this could be achieved.

It is our understanding that excavated material at the point of excavation is waste. The soil is a residue of the construction development. It is waste unless it can meet the by-product test. No evidence has been produced to state that the arisings have received an exemption licence from the Environment Agency.

Unless there are unequivocal agreements with appropriate permissions and exemptions in place to spread the soil on adjacent agricultural land, the current application prevents soil being stockpiled as there are no areas outside of the lagoon or removed from site as it has been confirmed that access to the public highway is specifically excluded.

Any decision to approve without clarification on whether the spoil is waste or non-waste suitable for dressing on agricultural land would seem to be endorsing the illegal disposal of waste.

We refer to the decision by the Planning Committee on the 3rd October 2018 to discharge Condition 2.25 are listed in our Statement of Grounds and Facts and until such time as we have received your defence and our Counsel has considered your legal arguments in this matter, we continue to rely on the facts laid out in our legal argument within the Judicial Review Claim CO/4517/2018.

We would request that the Planning Committee defer any decision in relation to the discharge of Condition 2.25 until such time as the matter has been tested in law by the High Court or a negotiated agreement is reached.

Yours sincerely

Cllr Peter Milliken
Chair Easton Parish Council

14th December 2018

Submission to Planning Committee
19 December 2018

Re Planning Application 20181336 Lagoon

I am concerned with the apparent undue haste with which this application is being considered without first establishing crucial facts. Broadland knew, or at least had inkling, that an off-site lagoon would be necessary over a year ago at the enactment of the LDO. Rossi Long Consulting were employed by Broadland to investigate the surface water disposal options for the LDO and the option for an early version of the off-site lagoon [drawing referenced 141222 SK-003 P1], dated one day after the LDO was signed off, is published to the web portal for 20170052.

There has been more than sufficient time to establish an acceptable methodology for disposal of excavated material which would have avoided the current concerns and allowed a properly prepared submission. We are now forced to consider an application devoid of firm details and information to allow adequate consideration of environmental issues.

There are two aspects to the application, namely the discharge of condition 2.25 of the LDO and planning permission for the lagoon on separate land to the west of Blind Lane.

Condition 2.25: Applications for discharge of conditions must be made in writing to the LPA as Section 27 of The Town and Country Planning (Development Management Procedure) (England) Order 2015. Broadland has not published any detail to indicate compliance of this requirement, but simply assumed a link with the planning application for the lagoon.

This issue was raised by Easton Parish Council in its Judicial Review Statement of Facts (43). At paragraph 3.10 of the latest (third) committee report, the Head of Planning states that *"there is no reason why the condition 2.25 cannot be discharged"*. This statement is contradicted by any reference to the fact that written application as required by the above order has not been submitted by the Applicant of the LDO. The lagoon Applicant is a different legal entity to the LDO Applicant.

It also must be obvious that discharge of a condition cannot occur unless and until the planning permission on which it relies is determined and enacted. Application to discharge must therefore post date approval of the lagoon.

Paragraph 3.8 states that *"It is considered that the proposed connection to Anglian Water mains sewer after 20,000m² of floorspace has been constructed is a reasonable and legitimate 'strategic scheme' and there is nothing in condition 2.25 which requires details of how this connection will be secured and delivered"*. The requirements of foul drainage are laid out in item 10.2 of the Design Guide at Appendix 2 of the LDO which states *"Foul drainage from the site should connect to the public sewer system, subject to the approval of an application under Section 106 of the Water Industry Act to Anglian Water"*. An interim solution is in direct conflict to this design condition.

Paragraph 3.6 attempts to answer the issue of ownership and maintenance omitted from the submissions and previous committee papers. It would appear that there the drainage is under two ownerships, namely Honingham Farms Limited for the lagoon site and (now believed to be) the Food Enterprise Park Ltd for the LDO site. The statement presents confirmation from the applicant that all the assets will be maintained by *"the landowner"* but does not clarify which one and maintenance of the treatment plant will be with the installer as part of the installation agreement. These confirmations

were not presented in the earlier committee papers and, as far as is known, still have not been submitted in writing which I would consider to be an essential aspect of planning discipline.

The conclusion at paragraph 5.1 states “the Planning Committee can justifiably approve the planning application” but makes no recommendation as to the discharge of condition 2.25. I assume this confirms my belief that the lagoon must be approved before application to discharge the condition can be submitted.

Planning Permission for the Lagoon: This validity of the submission was raised by Easton Parish Council in its Judicial Review Statement of Facts (33). This and other issues were also raised in my letter dated 7 October 2018 which remain unanswered.

Paragraph 3.2 of the third committee report discusses ownership names and concludes that “*the application forms are neither misleading nor incorrect*”. This conclusion is disputed. The form simply states the applicant as “Alston” and does not state a company. It would appear that this has been clarified subsequent to the resolution to approve and confirmed as Honingham Farms Limited a member of Honingham Thorpe Farms LLP. However, this does not make the application form correct.

The third committee report fails to consider other aspects of the validity of the application which I previously raised and which is restated as

1. The covering letter to the application from Brown & Co is inexplicably dated 19th January 2018.
2. The application dated 14th August incorrectly stated the area as 20071m² and included Certificate A noted as submitted by the Applicant but for which the agent’s details were given. This was corrected in an amended application received 11th September but the original date on the form remained. It is evident that the amendments were not carried out on 14th August and the legality of the second submission is suspect.
3. If the date of the amended application is assumed as 11th September (date of receipt), the date of Certificate A becomes invalid as it is greater than 21 days before the assumed date of the amended application.
4. The CIL Form is dated 10th August and is also invalid as it predates both the original and amended applications.

Paragraphs 3.4 and 3.5 discuss the soil arising from excavation of the lagoon. [For clarity due to the land contours the volume of excavated material is likely to be in excess of 50,000m³.] The Head of Planning relies on advice from the Council’s QC that “*spreading of soil does not need any further permission under the planning regime*”.

In support of this R (Birch) v Barnsley MBC [2010] EWCA Civ 1180 is quoted. [For clarity this is the Appeal against the original order ref R (Birch) v Barnsley MBC [2010] EWHC 416 (Admin) in which Lord Carlile of Berriew QC ordered the quashing of a planning approval].

The issues in this case and the unsuccessful appeal relate to expectations of environmental issues.

The Environmental Impact Assessment of the lagoon proposal is discussed at item 9.15 of the original committee papers with the conclusion that the application is not an EIA development. I have previously raised the question why Broadland considers it as falling within Section 10 (b) of Schedule 2 of the Regulations which is defined as “*Infrastructure Projects - Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas.*” The Head of Planning has not commented in this third submission and it can only be assumed that this improbable interpretation stands.

Similar to the Birch case, the Applicant has stated that the excavated material is to be spread on agricultural land outside the area of the application. Excavated material at the point of excavation is

waste. The soil is a residue of the construction development. It is waste unless it can meet the by-product test.

This is the fundamental question which remains unanswered as to whether the intended spreading on agricultural land reclassifies the material as non-waste. The quality of the subsoil is not stated in the submission and it can only be assumed that it is similar to that on the LDO site namely, gravelly, clayey and sandy to various degrees. In applying for an exemption licence from the EA there would be a need for justification of soil improvement by spreading this material and mixing with the existing topsoil, which must be considered extremely unlikely. If permission is not granted or if the work carried out without seeking approval the actions are no more than fly tipping of waste.

In an e-mail dated 18 September 2018, Liz Poole of the Highways Authority commented to Broadland that there may be a need to condition the movement of HGVs relating to the lagoon development unless there is reassurance from FEP that soil **will** be deposited on site. The restricted area of the site identified in the application means that soil can only be deposited off the application site area which covers the lagoon only.

In all of the reporting to members, the question whether the excavated material to be spread would or would not have ceased to be waste is left entirely open. This should be a fundamental to any EIA Screening and/or conditioning as recommended by the Highway Authority.

There is no evidence that Broadland carried out a full screening review as required by Schedule 3 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, particularly in consideration of waste material arising. The “standard wording” simply means that Broadland are at best naively assuming that EA approval will be given for the subsoil waste to be used to enhance agricultural land or at the worst endorsing an illegal act.

Both the area of spreading and that for storing excavated material are outside the area of the lagoon application and should be considered as cumulative developments as part of the screening assessment. In the absence of confirmation that the waste can be exempt, Broadland should proceed with caution by proposing a revised submission to include access to the public highway and by drafting a pre-commencement condition as recommended by the Highways Authority assuming that excavated material has to be transported by road to a licensed tip. The current proposals which categorically state no access to the public highway is required and is based the assumption that spreading will be permitted, will be invalidated if material has to be removed via public roads.

I wish to address paragraph 4.4 of the third committee report in which the Head of Planning states that *“Officers remain satisfied that the lagoon represents a piece of infrastructure which serves the LDO site. This is similar to the passing bays and highway works which are also infrastructure projects which serve the LDO site”*.

I strongly disagree with this statement. There is no similarity of the two schemes. The highways work is required to facilitate the FEZ and the lagoon is part of the design of the FEZ.

Appendix 2 – Design Code forms part of the LDO. Surface Water drainage is fully described at item 9.1 of this appendix stating *“Sustainable drainage solutions should be integral to the site design and comply with current SUDS requirements. Components should address the treatment of on-site attenuation and include multi-functional features such as swales, permeable paving and appropriate planting”*.

Paragraph 9.2 of the original committee report states that *“The reason the applicant has proposed the infiltration lagoon on a site outside the FEZ, on land within their ownership, is to allow commercial development to take place across the whole of the FEZ, as an on-site infiltration lagoon would significantly reduce the developable area”*.

The opening statement of that report notes that the application is referred to the Planning Committee *“on the grounds that Broadland District Council has been involved in the preparation and submission of details”*.

This is confirmed in that Broadland are stated as the Client on earlier versions of the submitted drawings for the surface water drainage designs. I have previously asked the question which is still not addressed in this third committee report that if Broadland were aware that infiltration was not feasible on the LDO site why did it go ahead and execute the order knowing that the extra land would be required.

Broadland took a calculated decision to progress the LDO at 31 October 2018 with the full knowledge that the surface water drainage may not have been possible without extending the area of the LDO. This application which confirms that additional land, more suitable for infiltration, is required must therefore be considered as a revision to the LDO which raises issues of authority.

A LDO, as outlined in section 61A of the Town & Country Planning Act 1990, is a process for implementation of a policy in a Development Plan Document. In this case the LDO realises the ambitions set out in the joint Food Hub Supplementary Planning Documents (SPDs) for Broadland & South Norfolk districts local planning areas for the Food and farming Hub as set out in the JCS.

Part Three of Broadland’s Constitution dated 1 October 2018 under “Powers Reserved for the Council”; section 13.1 lists functions that only the council will exercise. Sub-section (50) is defined as *“powers and duties relating to local development documents (including supplementary planning documents) under sections 20-23 and 25, 26 and 28 of the Planning and Compulsory Purchase Act 2004”*.

Reference to Section 26 (1) of that Act establishes that *“The LPA may at any time prepare a revision to a local development document”*.

The planning committee has no power to consider an application requiring a change to the LDO as this is a reserved power for the Council.

As a principle of authority this would also apply to the revision to the planning condition introducing an interim foul drainage solution is reserved for Council.

Finally, I wish to draw the committee’s attention to the fact that the Applicant has still not provided the site investigation details requested by Broadland which form the basis of the selection of this location for the lagoon. Broadland has not been able to assess for itself the percolation qualities of the soil or ground water levels.

The reference to the soils investigation is stated in the covering letter to the application that *“The optimum location was identified by AF Howlands who undertook the necessary ground investigation work and soakage testing. The results have satisfied Pat Abbot, Planning Advisor at the Environment Agency, and written confirmation has been attached as part of the planning application”*.

Neither the investigation nor the letter of confirmation is available for public scrutiny, if indeed they have been sent to Broadland.

Broadland will be aware of the importance of percolation expectations noting the failure of the lagoons on the NDR which are not working as designed.

There are potential adverse environmental implications for this scheme. If there percolation is not as anticipated the flood risk increases exponentially. I and others have already advised Broadland that the natural path of flood water from the lowest rim of the lagoon is north westerly direct to the river Tud.

I suggest that the technical information of ground conditions is critical to the effectiveness and sustainability of the proposals and an assessment of the effects for the private extracted water supply for a neighbouring property.

Yours sincerely,

Bryan Robinson