

**Updates for DEVELOPMENT MANAGEMENT COMMITTEE**  
**06<sup>th</sup> May 2020**

Item	Updates	Page No
Item 1	<p>The following comments have been received as further written representations and are attached as appendices:</p> <p>Agent - Parker Planning Services (Appendix A)  Applicant – Mr &amp; Mrs Rix (Appendix B)  Applicant – Mr &amp; Mrs Plume (Appendix C)  Ward Member – Cllr Fuller (Appendix D)</p> <p>In terms of the agents further written representations (Appendix A), officer comments follow the headings provided:</p> <p><b>Introduction</b></p> <p>With regard to the claim that the Council's self build requirements are not being met, the Council's register indicates that need within the District is being met.</p> <p><b>Policies DM1.3 DM2.2 &amp; Overriding benefits</b></p> <p>The existence of other commercial sites and units available locally, to meet need, and these are preferable to meet need - Whilst it is evident that another SNLP policy (DM3.16) justifies the loss of a /premises/site/use if others exist within that village to meet local need, the existence of other premises locally in this case does not negate the requirement to satisfy DM2.2 of the SNLP.</p> <p>As an observation, a marketing exercise would allow for the Council to truly understand whether there is a need or not for the site as a Builders Yard.</p> <p>In response to the claim that the current use is unneighbourly, the committee report is clear that there has been no complaints received by the Council's Environmental Protection Team. In general, there will typically be some degree of impact from any employment/commercial use, but this doesn't necessarily mean it is unacceptable impact eg traffic, noise but this is not necessarily an adverse impact.</p> <p>In response to the current use not being "employment" in the context of DM2.2. The SNLP includes a definition of "employment use" in the SNLP which refers to/cross references two other terms "Business Class" and "economic development" uses. "Business class" covers B1, B2 and B8, a builders yard isn't any of these as it is sui generis. "Economic development" use is defined as Development, including those within the B Use Classes, public and community uses and main town centre uses (but excluding housing development)" which is considered a wide reaching term that would cover a builders Yard. Therefore, in the context of the definition included in the SNLP it is considered that Policy DM2.2 applies.</p> <p>With regard to over-riding benefits in the context of policy. The agent points towards an appeal in Long Stratton being particularly relevant</p>	13

in the appeal. For the avoidance of doubt the quote from paragraph 5.7 of the officers committee report is taken from this appeal, and the Inspector uses the phrase "To present overriding benefits is to present benefits that are more important than anything else, and as a result, the proposed development would have to be exceptional.

With regard to the relevance of the allowed appeal at Deopham Rd, Morley St Botolph. Officers are aware of this decision, however, it is also evident that the Council has been successful in defending many appeals on the stance it has taken in respect of Policy DM1.3 of the SNLP as demonstrated in part in some of the 13 appeals dismissed and recorded on pages 33 to 35 of this agenda.

#### **Accessibility of the site**

The agent states that there are examples of the appeals that have stated that it is acceptable to have 2 or 3 mile car journeys, however they have not provided a list of these and as such officers have no further comment to make. It should be noted that paragraph 5.18 of the assessment makes reference to 4 examples of appeals dismissed on accessibility grounds.

The move towards electric vehicles in the future does not carry any significant material weight in justifying a development being located on a site that is outside of the development limit and has poor accessibility to a range of services and facilities on foot and is not decisive in the determination of this application.

#### **Flood Risk Sequential Test**

By way of background the following is taken from national guidance and provides an outline on how the sequential test is seeking to direct development away from areas of highest risk:

##### **What is the aim of the Sequential Test for the location of development?**

The Sequential Test ensures that a sequential approach is followed to steer new development to areas with the lowest probability of flooding. The flood zones as refined in the Strategic Flood Risk Assessment for the area provide the basis for applying the Test. The aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding), applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

- Note: Table 2 categorises different types of uses & development according to their vulnerability to flood risk. Table 3 maps these vulnerability classes against the flood zones set out in Table 1 to indicate where development is 'appropriate' and where it should not be permitted.

Within each flood zone, surface water and other sources of flooding also need to be taken into account in applying the sequential

approach to the location of development. (Paragraph: 019  
Reference ID: 7-019-20140306)

The agent suggests that an appeal case supports that only aspects of the proposal that are in flood zones 2 and 3 are required to pass the sequential test but does not provide the case suggested and as such officers cannot comment on this point. The guidance states that the sequential test applies to the "development" this should reasonably be interpreted to mean the full extent of the development in its entirety ie it does not just apply to the dwelling itself but its curtilage too. A scheme is not considered to pass the sequential test on the basis that that the garden cannot be disaggregated from the dwellinghouse as is advanced by the agent in their submission.

On this point, In terms of the sequential test, officers would point out the appeal associated with application 2019/0483 in Spooner Row whereby the Inspector confirmed this point at paragraph 24 of their decision in stating that "Therefore, and given that part of the site would be at high risk of flooding and "more vulnerable" development is proposed, it is necessary that the appellant submits a robust and sound sequential test. In considering this matter it is of note that the majority of the site falls within flood zone 1 and hence has a low probability of flooding. Nevertheless, part of the site is at high risk of flooding....." A copy of this appeal is attached for full reference as Appendix E.

Officers would also wish to highlight another appeal associated with a site in Wymondham 2017/1794 whereby despite there being a FRA provided including suggested mitigation measures, the Inspector at paragraph 11 of their decision highlighted that it was still necessary to undertake a sequential test. A copy of this appeal is attached for full reference as Appendix F.

Officers can confirm that the removal of permitted development rights as a condition of a planning approval would not address the issues associated with flood risk and the sequential test.

The agent suggests that it is more damaging to have a builder yard than dwellings in flood risk terms - Storage sites are classified as "Less vulnerable" uses in flood risk terms whereas a dwelling is a "more vulnerable" use in flood risk terms as set out in the technical guidance to the NPPF so this point is not accepted. See following table explaining vulnerability, land use and flood zone requirements in respect of sequential and exception tests.

Flood Zones	Flood Risk Vulnerability Classification				
	Essential infrastructure	Highly vulnerable	More vulnerable	Less vulnerable	Water compatible
Zone 1	✓	✓	✓	✓	✓
Zone 2	✓	Exception Test required	✓	✓	✓
Zone 3a †	Exception Test required †	X	Exception Test required	✓	✓
Zone 3b *	Exception Test required *	X	X	X	✓*

Key:

✓ Development is appropriate

X Development should not be permitted.

To assist members, a copy of a figure from the applicants Flood Risk Assessment which shows the extent of flood risk on the site after modelling has been attached as Appendix G. This highlights that it is the gardens that would be at risk from flooding. However, officers would wish to stress that the sequential test must be met regardless of this.

### Self Build & Conclusions

The agent states that there is case law that states that only sites that include a planning condition or S106 can be counted towards self-build provision but they have not provided details of which case law they are referring and as such officers cannot comment on this point. It is evident that to be considered a self-build plot the Housing and Planning Act 2016 states:

"development permission is "suitable" if it is permission in respect of development that could include self-build and custom housebuilding"

On this basis it is not necessary for a planning condition or legal agreement requiring it to be self-build only for it to be counted.

The inclusion of a short a time period for commencing the scheme does not address the planning concerns outlined in the report.

In terms of the three further letters from each of the applicants (Appendices B and C) these are noted by officers. No further comments are made on these.

In terms of Cllr Fuller's further written representations (Appendix D), officers would make the following observations:

On a point of clarification, officers accept the site is not "isolated" in planning terms, however, a site can still be refused on having poor connectivity to a range of services and facilities and the Council has seen numerous appeals dismissed on this ground.

	<p>The presence of a site in a 30mph zone does not necessarily mean that a site is sustainably located in planning terms.</p> <p>As highlighted in the response to the agents representations, the existence of other commercial premises locally doesn't negate the need to protect other employment sites if the tests of DM2.2 of the SNLP have not been met. Officers would wish to highlight that a marketing exercise would test this point somewhat insofar as if there is a "need", and this is met by other sites, then the marketing would not be successful.</p> <p>As highlighted above in response to the agent's representations, shortening the period for commencement does not overcome the planning concerns outlined in the committee report.</p>	
Item 2	<p>The following comments have been received as further written representations and are attached as appendices:</p> <p>Agent – A Squared Architects (Appendix H)  Applicant – Mr Korn (Appendix I)  Colney Parish Council (Appendix J)  Ward Member – Cllr Kemp (also signed by Mr D Elmer (Appendix K)</p> <p>The above representation are noted by officers. It is considered that the issues raised are satisfactorily addressed in the committee report.</p> <p>On a point of clarification, the site is located within the southern bypass protection zone, however, for the reasons set out in paragraph 5.7 of the committee report the scheme does not compromise the functioning of this and the scheme therefore satisfies the requirements of Policy DM4.6 of the SNLP.</p> <p>On a further point, a site is not considered previously developed land/brownfield land if it is residential curtilage.</p>	25



**Planning Committee Wednesday 6 May 2020**

**Item No. 1 – Application Ref: 2019/2566/F at Storage Land Welbeck Brooke Norfolk**

### **Introduction**

This information has been prepared by Parker Planning Services, as the Agent for this application to provide additional comments.

The proposal relates to Erection of 3 dwellings for self-build purposes on land which is used as a 'Builder's Yard'.

The most relevant local planning policy is DM2.2, relating to the Protection of Employment Sites. The relevant part of the policy states that there are two options to result in the loss of an employment site. Option A states that the possibility of re-using or re-developing the site for alternative business purposes has been fully explored. Option B states that the proposal would have "over riding economic, environmental or community benefits".

Policy DM1.3 of the Local Plan permits development outside of development boundaries where there are also 'over riding' benefits.

The other relevant consideration is that this proposal provides for self-build housing. Where a Council is not meeting its self-build requirements a proposal for self-build would then be considered against the principles of sustainable development, rather than the development plan with the balance tilted in favour of development.

This proposal would provide 3 homes for local families.

### **Policies DM1.3 DM2.2 & Over Riding Benefits**

We would suggest that there are a range of alternative sites available in close proximity to the site. This includes various commercial sites and units available. Due to the impacts of the current situation or current climate to businesses, to ensure the continuation of larger employment and commercial sites it would be more beneficial for this type of use to be sited on an industrial site or amongst other commercial uses, to contribute to the viability of that commercial estate, rather than being undertaken on a small stand-alone site, which is restrictive in what it can be used for and the scale of operations anyway.

It can be seen from the letters of support and information contained in the letters, the proposal would remove a use which is undesirable in this location and replace it with a modest housing development. The officer's report states that no neighbours commented on the existing site generating significant nuisance. This is incorrect, various neighbours specifically stated that although the site was well managed, it causes impact from noise and disturbance to neighbours.

We would like to emphasise that the loss of the site would not result in a loss of employment, as explained in the 'further information report' submitted.

This application has received no objections and is supported by neighbours and existing users of the site. If the site was needed for business, we would have expected an objection.

Whilst the Officer's Report refers to a minor written procedure appeal in relation the interpretation of over-riding benefits, being a high benchmark, this was the same view that the Council previously took. There is a very relevant appeal inquiry decision, (Appeal Ref: APP/L2630/W/18/3215019, Land off St Mary's Road, Long Stratton, Norfolk NR15 2TT for 52 Dwellings).

In relation to the interpretation of 'over riding benefits' the high level inspector states that all that is required for a proposal to result in over riding benefits is for the benefits of a scheme to outweigh the negatives. This was also echoed within appeal decision APP/L2630/W/19/3229614, for a new single dwelling on land at the front of Brook Cottage, Deopham Road, Morley St Botolph, NR18 9AA, which was allowed on 9th December 2019.

Therefore we disagree with the officer view that there needs to be exceptional circumstances.

#### **Accessibility of the site**

Many minor housing developments are approved in rural locations with no immediate access to facilities and services. Various appeals allowed even in the South Norfolk area relate to new housing in rural areas where car journeys of up to 2 or 3 miles are considered acceptable. This site is located in fairly close proximity to Poringland, which is a main service centre as well as the services on offer in Brooke. Cycling and low energy vehicles, are accepted as sustainable modes of transport, as defined within the NPPF glossary. All cars being built from 2035 will be electric and the applicants would be pleased for a car charging point condition to be imposed.



### **Flood Risk Sequential Test**

The further information report submitted with the application includes that only the aspects of a proposal that are within flood zones 2 and 3 are required to pass a sequential test. This is also supported by an appeal hearing case decision. As there is no other logical location for the gardens to be positioned in relation to providing amenity space to the proposed dwellings, the sequential test is passed. A Planning Condition could also be imposed to remove permitted development rights for outbuildings, if the council believe this to be necessary, although the Environment Agency actually allows outbuildings in flood zones and has no problem with them.

We would also suggest that it would be far more damaging to have an unrestricted builders yard in a flood zone than someone's garden, which adds to the further social, environmental and economic benefits of the proposal.

### **Self Build & Conclusions**

We would also mention, that in terms of self-build provision, we understand that the majority of sites being counted in South Norfolk for self-build purposes are those where a CIL exemption form has been submitted, rather than applications where a planning condition or legal agreement has been imposed for self-build.

There is clear case law which states that only sites where there is a planning condition or legal agreement can be counted towards self-build provision. Our view on self-build is supported by Mario Wolf, who we are working with on another case, who was previously a leading Government Advisor on self-build housing, working for the Ministry of Housing Communities and Local Government.

We would like to add that where and when the current situation allows, an immediate start on site is wishing to be achieved with the majority of trades for the build coming from the South Norfolk area, the remainder for Norwich. The applicants would also be willing to have a condition which means that work needs to start within a year, as appose to a 3 year condition.

The benefits of the proposal would clearly outweigh the harm and the applicants would be pleased for a legal agreement or planning condition to be imposed to require the proposal be provided as self-build. This is a true self build that will be built by the applicants themselves along with local trades men.



B

**Rose Cottage  
Briar Lane  
Swainsthorpe  
Norwich NR14 8PX**

Development Management Committee  
South Norfolk Council  
South Norfolk House  
Cygnet Court  
Long Stratton Norwich NR15 2XE

Dear Committee Member

Reference: Planning Ref 2019/2566 - Storage Lane, Welbeck, Brooke

Apologies for the late delivery with this letter. We weren't aware of the case officers report until Friday lunchtime and felt strongly about responding to some of the points raised and with your current arrangement, this gives us no chance to respond at the meeting. Thank you for allowing us this extended time.

We have read through the case officers report, and felt the best way was to respond to points as we found them. Please consider these along with the report from Parker Planning Consultants:

5.9 Policy DM2.2 - There would be an overriding economic, environmental or community benefit from redevelopment or change of use which outweighs the benefit of the current lawful use - there is plenty to support this: local trades to support the build, removal of neighbour disruptions for perpetuity, removal of brownfield site, less omissions due to the removal of large diesel engines replaced with more eco friendly vehicles, no loss of employment as there has been no employment certainly in the last 10 years and possibly for many years if ever before that?

5.11 We do not wish to market this site as we believe there are overriding economic, environmental and community benefits to allow a self build development for three families wishing to live and work in Brooke as stated above (5.9)

5.13 The case officer may not have any official complaints from the neighbours as we have always encouraged them to contact us if they felt unhappy, hence if there were problems, which there has been, they have contacted us and we have tried our best where possible to alleviate their issues. Unfortunately, there is nothing that can be done regarding the movements of large vehicles and associated loading noise disturbances.

5.14 The case officer refers to the site as being an 'employment site' - it may have a title of being an 'employment site', but is this really a great site to be employed at? If you had to work here all day, and you had an hour for lunch, where would you go? You would most likely get in your car/van and go to the the employment site on the Norwich Road to the cafe or into Poringland to Budgens or similar? The road links to the site are far from ideal as we have just found by one of our tenants relocating due to better transport links, the owners of Hunters Moon have also backed up this argument in their comments.

5.17 We are aware of how far the local services are and are very comfortable that should we need them we can access them safely for the very short distance without the need of a footpath. We are very keen cyclists, even taking cycling holidays, so cycling to the pub or shops would be our preferred option. Norfolk County Council are encouraging cycling and this area is an ideal safe ride into the village if needed and indeed for local cycling in the countryside. If Norfolk County Councils Highways are so concerned about the lack of a very small area of footpath from this site, given that it is only approx another 4m from the neighbouring drive and within a 30mph speed limit, why has this not been addressed in the past? On the point of public transport how sure can we be that public services will be around in the coming years as it is recently being

widely cut through many rural villages. It must also be pointed out that anyone wishing to live in the countryside are very aware of the lack of footpaths and actually embrace the lack of concrete, we certainly do. We do not feel that this development will encourage further vehicular movements than the current use. If the site was to be commercially developed this most likely would generate more movements and more emissions. We have lived in the countryside for some 35 years and we have, as most people living rurally, learned to shop when we are either going or returning from work, or when you are already out. On a final note, given that the government are moving heavily towards the manufacture of electric vehicles in a very few years, its more likely that dwellings will own electric vehicles than commercial outlets, hence this will be a considerable drop in emissions in the future if this site was changed to residential.

5.22 We have submitted a flood modelling report that supports three dwellings within this flood zone area. If we had to return to re-developing the site commercially, to make any living from this site, the site would have to be used in its entirety to ensure a financial return. We are asking for three dwellings at the top of the site, outside the modelled flood area, with gardens in the most venerable areas, which would, in the outside event of a flood not be a problem, we have owned this site for 10 years and it has never flooded.

5.27 This site is an unsightly brownfield site within a pretty well kept village where the villagers themselves are proud to live. It has been clearly demonstrated that the villagers and also the Parish are in favour of this development with only support and no objections received for this development.

5.28 Tim has argued that this development does not outweigh a material consideration - given that this is a brownfield site and has met with strong neighbour and local support to remove the existing use and replace with three dwellings, we feel this does in fact contribute to outweigh the consideration.

5.29 We can confirm that this site will be carried out as a self-build for ourselves and we are happy to sign a document to ensure this to avoid any doubt.

5.35 In considering local finances, we have already explored and documented that the local area has sites with availability for local storage as the current use of this site. We will provide local trades, some from Brooke and some from surrounding villages to enable this self build.

In conclusion - We have strong personal and business connections to Brooke. Having lived in South Norfolk for some 35 years, our property maintenance business has developed in and around the villages of Brooke and the South Norfolk area. We currently live in Swainsthorpe, so travelling time and emissions would be reduced as our work tends to be nearer to Brooke than Swainsthorpe.

We have spent a considerable amount of time to gather information to support our application to ensure the development complies, is safe, appropriate, acceptable and will help to enhance the surrounding area. These include extensive reports and tests carried by professionals to support the development, such as ensuring that the dwellings are indeed outside of any flood area. We have held this site for 10 years, and never in those 10 years have we had any flood water what so ever, so the tests provided are very much indeed a worse case scenario. It must be said also that garden land would be far more suited to any potential flood than commercial property with vehicles/buildings/stock etc being stored in that area. The outcome is such that there is only support and some excitement at the possibility of the loss of a brownfield site and associated disruption within a village that encourages a high standard of living. In paragraph 5.36 Tim quite clearly states that 'this application has no adverse impact on the appearance of the wider area, residential amenity, highway safety and flood risk and there would be modest economic benefits associated with the construction and subsequent occupation of the dwellings, along with the benefits of the proposed extension to the 30mph speed limit' and yet he states later that there would be no overriding benefits to this scheme?

We do not accept this proposal will generate further emissions from extra vehicular movements as a large number of private cars are already electric with the Government setting targets to have all electric very soon, whereas commercial vehicles are predominantly diesel.

We are all in a position to make a start on our dwellings as soon as possible and when the current situation allows and would be very happy to work with the neighbours to minimise any disruption we may cause.

Thank you for taking the time to consider our points.

Kind regards

Julie & Nigel Rix



C

Mr & Mrs D Plume  
16 Park Close  
Thurton  
NR14 6AU

Development Management Committee  
South Norfolk Council  
South Norfolk House  
Cygnet Court  
Long Stratton  
Norwich  
Norfolk  
NR15 2XE

03<sup>rd</sup> May 2020

Dear Committee Member,

Re: Planning Application 2019/2566 – Storage Land, Welbeck

We write ahead of the Development Management Committee meeting for this coming Wednesday.

I have been in the building trade for my entire working life and would relish the opportunity to build my own home for my family.

Having lived in Brooke for a number of years previously, we as a family would very much like to be part of that community once again. Our youngest daughter is of Primary School age and we would very much like to see her as a pupil of Brooke School which we know has a great reputation.

The yard as it is offers no real benefit to the surrounding area. We think that we have a good design that we would build to a very good standard to benefit the surrounding area. We also know that the neighbours would welcome the fewer vehicle movements and the more neighbourly situation that the proposed change of use of this application would provide.

Yours sincerely

David & Hayley Plume





D

**From:** John Fuller <[john@johnfuller.org.uk](mailto:john@johnfuller.org.uk)>

**Sent:** 01 May 2020 15:59

**To:** Planning <[Planning@S-NORFOLK.GOV.UK](mailto:Planning@S-NORFOLK.GOV.UK)>; Helen Mellors <[hmellors@s-norfolk.gov.uk](mailto:hmellors@s-norfolk.gov.uk)>; Vic Thomson <[vthomson@S-NORFOLK.GOV.UK](mailto:vthomson@S-NORFOLK.GOV.UK)>; Lisa Neal <[lneal@S-NORFOLK.GOV.UK](mailto:lneal@S-NORFOLK.GOV.UK)>

**Subject:** Brooke - Written Reps for 6th May

I have made a number of previous points and stand by all of those as stated in the report.

This is a brownfield site immediately next to a cluster of about seven or eight houses in Brooke. This is not an isolated proposal. It is in-by the established pattern of development in Brooke and within the 30mph limit. Whilst outside the development boundary, this cannot be considered to be open countryside. It is more infill and with the grain of residential building in the service village - one with many facilities.

I completely reject the arguments made about extra mileage and unsustainable transport as a reason for refusal. A development within the 30mph limit is to all intents and purposes within the village insofar as traffic and movement is concerned. No weight should be given to the suggestion that this proposal would result in extra travel.

That said, the road is narrow but that makes the point that it is unsuitable for heavy vehicles and alternative commercial uses.

Whether or not the property has been advertised for alternative use, there is established commercial availability in Brooke Industrial Park and Seething Industrial Area in the neighbouring parish. The existing user has found alternative premises better suited on a main road elsewhere. There is no shortage of commercial supply in this particular case and better alternatives are readily available.

It is immediately next to other residential dwellings. The fact that officers feel that there has been insufficient advertising should carry minimal weight in the current circumstances. We should ask ourselves, even if the property were to be advertised, what response would you expect right now? Delivery is at a premium and the proposers have indicated that a 12 month permission would be acceptable. We should accept that offer.

And especially so as there are no objections and the support of immediate neighbours and even the Parish Council. And the property is for self build for people who already live in the Parish - a further consideration.

Sustainable development is about balancing the three limbs of economic, social and environmental development. When considering the planning balance in the round, and recognising the circumstances we find ourselves in, I rank the promise of early delivery, on a brownfield site, where there is nearby alternative commercial premises provision, contiguous with about 8 existing dwellings, on a road unsuitable for commercial traffic but within the accepted 30mph zone, for self build and with the full support of the parish and neighbours to be the most material factors here and when taken together outweigh the lack of advertising, which we must all recognise is of limited use in the circumstances and which is a make-weight point and which fades into insignificance when benchmarked against all the other factors. I give no weight whatsoever to the traffic point and neither should you.

This proposal should be supported and I would suggest a shorter than normal commencement data conditioned so that the present COVID-19 circumstances which require delivery and encouragement in short order are incentivised and recognised.

--

Councillor John Fuller OBE



## Appeal Decision

Site visit made on 24 October 2019

**by Daniel Hartley BA (Hons) MTP MBA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 29<sup>th</sup> October 2019**

**Appeal Ref: APP/L2630/W/19/3234632**

**Land to the east of School Lane, Spooner Row, Norwich, Norfolk**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Grimmer against the decision of South Norfolk District Council.
- The application Ref 2019/0483, dated 22 February 2019, was refused by notice dated 1 May 2019.
- The development proposed is the erection of 5 self-build dwellings including a new vehicular access.

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is submitted in outline with all detailed matters reserved apart from access. An illustrative layout accompanies the application and I have taken this into account in so far as assessing the acceptability of the proposal in land-use principle terms.
3. I have taken the appeal site address from the Council's refusal notice and the appellant's appeal form as this is more precise than the address on the outline planning application form.

### Main Issues

4. The main issues are (i) whether the local planning authority can demonstrate a deliverable five year supply of housing sites; (ii) whether the proposal would be acceptable in locational terms taking into account the development plan strategy for the area; (iii) the effect of the proposal on the character and appearance of the area; (iv) whether the proposal would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding; (v) the effect of the proposal on protected species including reptiles and (vi) the effect of the development on highway safety.

### Reasons

#### *Housing land supply*

5. As part of the appeal, the Council has provided an update to its housing land supply and delivery position. The Council's published Annual Monitoring Report 2017-18 sets out that a deliverable 6.54 years supply of housing sites can be demonstrated across the joint Greater Norwich Authorities area: this is based

on the standard methodology for the calculation of Local Housing Need given that the Joint Core Strategy for Broadland, Norwich and South Norfolk 2014 (CS) is now more than five years old. Furthermore, the Council has confirmed that its Housing Delivery Test requirement has been met, i.e. 133% of the number of homes required between 2015/16 and 2017/18.

6. I do acknowledge that maintaining a five-year supply of deliverable housing sites is a minimum requirement and that the proposed five additional dwellings would seek to boost the supply of homes in the area. This is a positive matter to which I weigh in the overall planning balance later on in this decision. However, the appellant has not provided me with any credible evidence to refute the Council's aforementioned housing land supply/deliverability position. I therefore have no reason to disagree with the Council's expressed position in terms of housing land supply and deliverability and the appellant has not indicated why he considers that there is "*uncertainty over delivery*".
7. I conclude that the evidence before me does indicate that more than a five-year supply of deliverable housing sites for the area can be demonstrated. Consequently, paragraph 11d of the National Planning Policy Framework 2019 (the Framework) is not engaged.

#### *Location and local housing strategy*

8. Policy DM1.3 of the adopted South Norfolk Local Plan Development Management Policies Document 2015 (LP) draws on the spatial strategy for the location and scale of new housing and employment growth in the area as outlined in the CS. It states that for development in the Countryside outside of the defined boundaries of settlements (as is the case for the appeal proposal) permission will only be granted where specific development management policies allow for development outside of development boundaries or where it '*2(d) otherwise demonstrates overriding benefits in terms of economic, social and environmental dimensions as addressed in Policy 1.1*'. There are no specific development management policies in the development plan for the area which would support the release of the site for market housing in this Countryside location.
9. In respect of 2(d) of policy DM1.3 of the LP, the provision of five dwellings on the site would boost the supply of housing in the area. However, the contribution from five dwellings would only be a modest boost to the supply of housing and, furthermore, this would be in the context that I am persuaded by the Council's evidence that the local planning authority can currently demonstrate a deliverable five year supply of housing sites and that it has not fallen short in terms of meeting its housing delivery target.
10. The appeal site is close to the settlement of Spooner Row which has a range of facilities including a village hall, public house, café, primary school, pre-school, church and a recreation ground, all of which would be in convenient walking distance of the site. I acknowledge that School Lane does not include footpath along its entire length, but I do not consider that this in itself would be an impediment to walking taking into account the relatively slow traffic speeds that I witnessed as part of my site visit within what is a 30-mph zone.
11. I also note that there is a train station close to the site which I am told includes services to and from main settlements further afield and where there is a greater choice of facilities/amenities and job opportunities. Indeed, the main

parties do not dispute the point that the appeal site is positioned in an accessible location: this is therefore a positive environmental consideration to weigh in the overall planning balance.

12. I do not doubt that the proposal would also seek to at least maintain the vitality of the existing rural community and that the occupiers of the dwellings would support local services. In this regard, the proposal would accord with the rural housing aims of paragraph 78 of the Framework. In addition, the appeal proposal has been submitted on the basis that the plots would be offered on a self-build dwelling basis, thereby offering greater housing. However, this benefit is tempered by the undisputed evidence from the Council that the proposal is not fully required to meet the Council's self-build targets. Nonetheless, the above are positive social and economic benefits to weigh in the overall planning balance.
13. In considering the character and appearance main issue below, I have found that some very limited harm would be caused to the character and appearance of this Countryside location. This is therefore an environmental matter which to a limited degree weighs against allowing the appeal. However, in reaching this view it is of note that the proposal would not lead to the development of isolated homes in the countryside taking into account paragraph 79 of the Framework. Indeed, the appeal site is closely related to existing residential development and indeed to the settlement boundary for the village where there are a number of existing buildings and facilities.
14. In conclusion, the proposal would deliver some social and economic benefits. However, and as per my conclusions below, there are a number of environmental considerations that weigh against allowing the development including concerns relating to flood risk and to matters of highway safety. Furthermore, some limited harm would be caused to the character and appearance of this Countryside location. In this case, the evidence before me also indicates that the local planning authority can demonstrate a deliverable supply of more than five years housing sites and that the Housing Delivery Test requirement has been met.
15. In the context of the above, the proposal would not accord with the strategic housing requirements of Policy DM1.3 of the LP, or put another way there are no identified overriding benefits in terms of economic, social and environmental dimensions.

#### *Character and appearance*

16. In the main, the existing pattern of development in the area relates to large detached buildings set within spacious plots and arranged in a linear form alongside main roads which include School Lane, Station Road to the south and Chapel Road which is further to the east and beyond the railway. There are, however, some exceptions to this pattern of development in the wider area including development at Chapel Loke to the east and the appellant has also drawn my attention to planning permission 2016/0255 for housing development set back from the Road at 1 Cantley Villas, Station Road.
17. I acknowledge that the appeal site is currently undeveloped and that it does afford some undeveloped and green views for the occupiers of some of the existing surrounding residential properties on School Lane and Station Road. That said, many of the trees on the appeal site boundary with the dwellings off

School Lane are tall and mainly evergreen and so at this point the site is not conspicuous from the rear of most of these residential properties. In any event, the courts have held that a right to a view is not a material planning consideration and there is no dispute between the main parties that it would be possible to erect five dwellings on the site without any significant harm being caused to the living conditions of the occupiers of surrounding residential properties. I do not disagree with such a view taking into account existing boundary treatments and the potential to achieve acceptable separation distances between existing and proposed properties.

18. In addition to the above, the illustrative layout shows that it would be possible to erect five dwellings on the site in a characteristic linear form and set within spacious plots. Such development would suitably reflect the existing pattern of development on School Lane and Station Road. Furthermore, the width of the residential plots could be similar to those that surround the site. Whilst the rear garden areas might not be capable of being as long as those on School Lane, I do not consider that this in itself would result in any significant harm to the character and appearance of the area. The plots would still be capable of being spacious and residential development on the site would essentially be visually self-contained given the existing boundary planting and the potential for additional boundary planting where gaps (e.g. to the rear of some of the dwellings off Station Road) currently exist.
19. Furthermore, dwellings on the site would not be very visible from public vantage points other than perhaps glimpses from those travelling on a train to the east. Indeed, I was able to see on my site visit that there are some established trees on the boundary of the appeal site facing towards the railway line. In addition, and whilst landscaping would be reserved for future consideration, the illustrative plan also shows that it would be possible to erect five dwellings on the site whilst also ensuring that there would be land to accommodate very significant boundary/buffer planting and alongside the likely internal access road.
20. I acknowledge that the proposal would introduce development to the rear of existing properties and into an area of designated Countryside. The development of the site, which is currently undeveloped and verdant, would undoubtedly lead to some localised visual change. To this extent, there would be some harm caused to this area of Countryside. However, any such harm would be capable of being relatively limited in impact particularly if the dwellings were much lower in height than surrounding properties. This is a matter that would need to be carefully considered at reserved matters stage.
21. In reaching the above views, I am cognisant of the fact that the wider area does include a limited number of other 'backland' development, albeit that this is not a prevalent characteristic in the locality when considered as a whole. In this case, the appeal site is not very conspicuous in the public realm. The proposal would essentially represent a form of infill development between rows of houses on Station Road and School Lane and the railway line. Furthermore, there is some existing boundary landscaping that would help to screen/soften the development. Given this, coupled with opportunities to introduce some additional high-grade buffer landscaping on the site, I find that in principle the proposal would lead to only limited harm to the character and appearance of the area and to the landscape and scenic beauty of this part of the Countryside.

22. For the above reasons, I conclude that in principle the proposal would lead to only very limited conflict with the requirements of Policy 2 of the adopted CS; Policies DM1.4 and DM 3.8 of the LP and paragraph 170 of the Framework, which collectively seek to promote well designed places and to recognise the intrinsic character and beauty of the countryside.

*Flooding – Sequential and Exception Tests*

23. According to the Environment Agency (EA) maps the site is shown as being within Flood Zones 3a, 2 and 1. Flood zone 3a is defined by the '*Planning Practice Guidance: Flood Risk and Coastal Change*' as having a high probability of flooding. The proposal would be for new build residential development and is therefore classified as a '*more vulnerable*' development, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance. Therefore, to comply with national policy the application is required to pass the Sequential and Exception Tests and be supported by a site-specific Flood Risk Assessment (FRA).
24. The appellant contends that the railway embankment forms a barrier to flood risk and as such questions why it is suggested that parts of the site would be at high risk of flooding. I have not been provided with any detailed survey information or calculations which would lead me to depart from the information provided in terms of the EA flood maps. Therefore, and given that part of the site would be at high risk of flooding and '*more vulnerable*' development is proposed, it is necessary that the appellant submits a robust and sound sequential test. In considering this matter, it is of note that the majority of the site falls within flood Zone 1 and hence has a low probability of flooding. Nevertheless, part of the site is at high risk of flooding and as this is an outline planning application (with access), it is not certain how the site would be finally laid out.
25. The Council contends that there are sequentially preferable sites located elsewhere in the wider area and that it can demonstrate in excess of a five-years supply of deliverable housing sites. However, I do not know if these housing sites are for sale, if they meet the specific requirements of the appellant, or if any or all of them fall within areas that are not the subject of the same risk of flooding. In making these points, it was perhaps incumbent on the Council to have been more specific about which of the sites it felt were sequentially preferable in flood risk terms.
26. I note that the appellant has submitted a list of sites that are being marketed as part of appendix 2 of the appeal statement. However, the appellant has not provided detailed reasons as to why these sites are not suitable from either a flood risk point of view and/or a development requirement point of view. Furthermore, it is possible that there are some additional sites which have the benefit of planning permission and/or are available for housing development which are in areas which are not at the same risk of flooding. There is clearly some uncertainty in terms of the latter issue.
27. I note that the Environment Agency raises no objection to the proposal in respect of the position of the dwellings as shown on the illustrative plan which would all be sited in flood zone 1. The Environmental Agency also raise no technical objection to the illustrative proposal commenting that the site ground level of 42.25m AOD is above the 1% (1 in 100) annual probability flood level including 35% climate change of 42.20m AOD and therefore both the site and

unknown finished ground floor levels would be dry of flooding by at least 0.05m depth in this event. Nonetheless, and for the reasons outlined above, the sequential test is not passed. In view of this, it has not been necessary for me to consider whether the Exception test would be passed.

28. For the above reasons, I conclude that the sequential test has not been passed. Therefore, the proposal would conflict with the Policy 1 of the CS and paragraph 158 of the Framework which aims to steer new development to areas with the lowest risk of flooding.

#### *Biodiversity*

29. At planning application stage, the applicant submitted a Preliminary Ecological Survey prepared by Gray Ecology. This survey indicated that whilst there was no evidence of any reptiles on the site, the likelihood of common reptiles being present within the site was '*high*'. This formed the basis of the Council's reason for refusal in so far that without further survey work it was not possible to determine with any certainty whether the proposal would cause harm to reptiles.
30. As part of the appeal, the appellant has submitted an Ecological Impact Assessment (EIA) prepared by Gray Ecology and dated August 2019. The EIA concludes that the additional July and August 2019 surveys did not reveal any reptiles on the site. It states that the likelihood of common reptiles being occasionally present within the site is '*moderate*'.
31. Subject to the precautionary measures as outlined in the EIA being implemented, as well as a series of nature conservation enhancements including the provision of bat boxes, bird boxes, retention of trees and the planting of native hedgerows/trees, I conclude that the proposal would not cause harm to any protected species/biodiversity. Furthermore, there would be some biodiversity enhancements. To this extent, the proposal would accord with Policy 1 of the CS and paragraph 174 of the Framework which seek to protect and enhance biodiversity. The Council does not disagree with this conclusion and has therefore withdrawn its reason for refusal in terms of this matter.

#### *Highway safety*

32. The access into the site is on a part of School Lane which is restricted to no more than 30 mph. On this basis, it is necessary that sightlines of 2.4 metres x 43 metres can be achieved taking into account highway standards in Manual for Streets. Whilst I do acknowledge that the proposal includes a widening of the existing site access, so that vehicles could pass before the narrower part of the access, this improvement does not obviate the need to achieve safe and acceptable visibility splays in accordance with Manual for Streets. In respect of the latter proposal, I note the comments made by the occupiers of Orchard House who claim that they do not consider that the Anglian Water own all of the land needed to widen the access road as shown on the submitted plans. However, this is not a determinative matter that needs to be clarified as the appeal is being dismissed for a number of other reasons.
33. Whilst drawing No 1646-01b does purport to show visibility splays of 2.4 metres x 43 metres, this has not been based on a detailed topographical survey. As part of my site visit, I was able to see that at either side of the site



entrance there were high hedges. It is not clear from the evidence before me if parts of these hedges overhang or are part of the highway, or if they are entirely in private ownership. Clearly, this can only be established by means of the completion and submission of a topographical survey, land ownership plans and then a detailed and appropriately scaled site access/visibility splay drawing.

34. Given the above, I cannot be certain that it would be possible to achieve the required sightlines without utilising land in private ownership. I am cognisant of the comments made by the occupiers of Orchard House, who claim that part of the land required for access widening is in their ownership, as well as the Council's assessment of current sightlines at the site access which they claim are 2.4 m x 20 m to the south-west and 2.4 m x 5.0 m to the north-east. This adds to the overall uncertain position. Without further clarity about the ownership/control of hedges/land at the site entrance, I cannot therefore conclude that it would be possible to permanently provide an acceptable, safe and unobstructed access.
35. Given the above, there is potential for the proposal to lead unacceptable highway safety consequences including accidents between drivers leaving the site and on-coming vehicles travelling along School Lane. Consequently, I am unable to conclude that the proposal would accord with the highway safety requirements of policy DM3.11 of the LP and paragraph 109 of the Framework.

### **Other Matters**

36. I note that the appellant has referred to other appeal decisions<sup>1</sup> where Inspectors have concluded that the local planning authority has not been able to demonstrate a deliverable five-year supply of housing sites. I have determined this appeal on the basis of the evidence that has been submitted as part of this appeal and based on the published Annual Monitoring Report. Therefore, the other appeal decisions do not alter my findings in terms of the housing land supply main issue.
37. None of the other matters raised alter or outweigh my overall conclusion on the main issues.

### **Planning Balance and Conclusion**

38. The proposal would fail to accord with the housing strategy for this Countryside area as outlined in policy DM1.3 of the LP and I am unable to conclude that the proposal would not result in unacceptable highway safety impacts. In addition, I have found that some limited harm would be caused to the character and appearance of this Countryside location and that in flooding terms the sequential test has not been passed. Collectively, these are adverse environmental matters to which I afford significant weight as part of the determination of this appeal.

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<sup>1</sup> Appeal Ref Nos APP/L2630/W/18/3209464 & APP/L260/W/18/3217160

39. I have found that the proposal would not cause significant harm to biodiversity, although this is essentially a matter of neutral consequence in the overall planning balance. Whilst the proposal would deliver some benefits, as identified in this decision, these are not of sufficient magnitude to outweigh the very significant collective harm that I have identified above. On balance, and taking into account all other matters raised, I therefore conclude that the appeal should be dismissed.

*Daniel Hartley*

INSPECTOR



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## Appeal Decision

Site visit made on 11 June 2018

**by Graham Chamberlain BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>th</sup> June 2018**

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**Appeal Ref: APP/L2630/W/18/3195703**

**2 Norwich Common, Wymondham, Norfolk NR18 0SP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Andrew Broom against the decision of South Norfolk District Council.
  - The application Ref 2017/1794, dated 25 July 2017, was refused by notice dated 21 November 2017.
  - The development proposed is sub-division of site to form new residential building plot.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The planning application was submitted in outline with all matters of detail reserved for future consideration. Nevertheless, a layout plan has been submitted and I have treated this as a reasonably firm proposal as an alternative siting is unlikely to be appropriate in the street scene. I have otherwise treated the drawings as being an illustration of how the proposal could be configured.
3. Both the appellant and the Council were afforded an opportunity to provide further representations on whether or not the sequential test pursuant to Paragraphs 100 – 102 of the National Planning Policy Framework (the Framework) is relevant to my assessment of the appeal scheme.

### Main Issues

4. The main issues in this appeal are whether the proposed development would be in a suitable location when applying policies concerned with: 1) the development of land at risk of flooding; and 2) the location of housing.

### Reasons

#### *Policies concerned with the development of land at risk of flooding*

5. Policy DM 1.3 of the DMP states that new development should be located so that it positively contributes to sustainable development. This includes siting development with regard to national policy on flooding. A point supported by Policy DM 4.2 of the DMP. The Framework sets strict tests to protect people

and property from flooding and where these tests are not met, national policy is clear that new development should not be allowed<sup>1</sup>.

6. The PPG<sup>2</sup> explains the sequential risk based approach to flooding and the steps to follow when considering matters of flood risk. These are to assess flood risk, avoid flood risk and then manage and mitigate flood risk. Development should be designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. 'Flood risk' for this purpose is defined as the combination of the probability and the potential consequences of flooding from all sources<sup>3</sup>, including surface water<sup>4</sup>.
7. For fluvial (river) and sea flooding, land at the highest risk includes sites within Flood Zones 2 and 3 as defined by the Environment Agency (EA). The appeal site is identified as being within Flood Zone 1 and is therefore at a low flood risk from rivers and the sea. However, for the purposes of applying the policies and guidance in the Framework and PPG, areas at risk of flooding can also include a site within Flood Zone 1 at risk from surface water flooding.
8. In this instance, the EA 'Flood Risk from Surface Water Map' identifies the appeal site as being at a low, medium and high risk from surface water flooding because it has a clay sub soil, is positioned lower than the adjoining road and is close to a drainage ditch. The part of the site at high risk is where the dwelling is most likely to be sited and therefore the residents of the appeal scheme would be at a high risk from surface water flooding. The presence of the dwelling would also displace surface water, thereby increasing the risk of flooding elsewhere. The 'high risk' categorisation is supported by local evidence supplied by the Council's Water Management Officer, which includes a past flooding event of No 2.
9. It is unclear whether the evidence outlined in the preceding paragraph has been translated into the Council's Strategic Flood Risk Assessment. However, the EA's 'Flood Risk from Surface Water Map' is recent evidence and it is right to consider this when establishing the flood risk of the site. Moreover, the appellant's flood risk assessment has indicated that in the worst case low risk event the depth of water across the proposed dwelling would be between 0.3 and 0.9 metres. Thus, the flood hazard to people would be *Dangerous to Most* when applying a hazard equation. National policy and guidance is clear that flood risk should be avoided before the risk is managed and mitigated.
10. Paragraph 100 of the Framework seeks to direct development away from areas at the highest risk of flooding by applying the sequential test (ST) as part of a sequential approach to flood risk. The aim of the ST is to steer development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the development in areas at a lower probability of flooding. Consequently, it is necessary for the appellant to demonstrate that the sequential test has been correctly applied within a robustly defined Sequential Test Area (STA) before

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<sup>1</sup> See Paragraphs 100 – 104 therein

<sup>2</sup> Paragraph: 001 Reference ID: 7-001-20140306

<sup>3</sup> Including from rivers and the sea, directly from rainfall on the ground surface and rising groundwater, overwhelmed sewers and drainage systems, and from reservoirs, canals and lakes and other artificial sources

<sup>4</sup> It states that within each flood zone, surface water and other sources of flooding need to be taken into account in applying the sequential approach to the location of development and that other forms of flooding should be treated consistently with river flooding in applying the sequential approach across all flood zones.

moving on to consider mitigation and whether the development can be made safe for its lifetime.

11. The appellant has not submitted the findings of a ST. As such he has not demonstrated that sites of lower probability of flooding, which could accommodate the proposed development, are not available. Thus, the appeal scheme would depart from local and national policy. It may be possible to employ mitigation in the form of a Water Exclusion Strategy, a Water Entry Strategy, raising the property and lowering the rear garden but this does not alter the need to apply a sequential approach first.
12. Notwithstanding the above, lowering the levels of the garden would not be suitable as it could result in the private amenity area proposed to serve the occupants of the property being water logged in wet weather. Depths in the rear garden could reach 1.2 metres in a worst case scenario. Thus, I share the Council's view that if the mitigation is pursued the living conditions for future occupants would be poor.
13. I therefore conclude that future occupants of the proposed development would be at an unacceptable risk of flooding and would therefore endure inadequate living conditions. Consequently, the proposal would be contrary to, and harmfully undermine, Policies DM 1.3, DM 3.13 and DM 4.2 and Paragraphs 100 and 101 of the Framework.

*Policies concerned with the location of housing*

14. Policy DM 1.3 of the DMP<sup>5</sup> sets out a planned strategy for development in the district. It flows from the policies of the Joint Core Strategy and seeks to guide new development to sites within defined settlement boundaries so as to protect the countryside and promote sustainable patterns of development.
15. The proposed dwelling would be located within the existing curtilage of 2 Norwich Road (No 2). This property has a frontage onto the B1172 and is located on the periphery of Wymondham. There is residential development to either side and a large housing estate to the south west is currently under construction. There is also modern estate housing on the northern side of the road opposite the appeal site and some earlier ribbon development along the B1172. Although there is considerable development in the vicinity of the appeal site, it is nevertheless positioned in the countryside being outside the settlement boundary of Wymondham and within a defined strategic gap.
16. Policy DM 1.3 of the DMP states that development outside defined settlement boundaries will only be granted where specific development management policies allow for it or there are overriding benefits in terms of the economic, social and environmental dimensions of the proposal. In this context, I have seen nothing of substance to suggest the proposal would adhere to a specific development management policy that would otherwise permit housing in the countryside. As such, the proposal fails the first limb of Policy DM 1.3.
17. Turning to the second limb of Policy DM 1.3. The appeal scheme would deliver a number of benefits. It would be a windfall development that would support the local economy through construction jobs and the circulation of funds. The proposal would also boost housing supply when there is currently a modest deficit. However, as only a single dwelling is proposed these benefits would be

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<sup>5</sup> South Norfolk Local Plan Development Management Policies Document 2015

of a limited scale. The proposal could also support the vitality of the local community but this is a matter of limited weight in the absence of evidence outlining the practical local effect of this.

18. The appeal scheme could be a self-build project and the Framework requires local authorities to positively plan to support this type of development. However, I have seen no evidence that the local need for self-build plots could not be met through development consistent with existing development plan policies and, in any event, there is no mechanism before me to secure the proposal as a self-build opportunity. This is a point of limited weight.
19. Thus, the appeal scheme would have limited economic and social benefits and would result in environmental harm given the risk from flooding and the poor living conditions that would arise from this. Thus, the proposal would not have overriding economic, social and environmental benefits. As such, the appeal scheme would be contrary to the first and second limbs of Policy DM 1.3 of the DMP and thus harmfully undermine the planned strategy for housing therein.

### **Other Matters**

20. The Council is currently unable to demonstrate an adequate housing land supply as required to by the Framework. Thus, Paragraph 14 of the Framework is engaged as an important material consideration. In this case the policies in the Framework relating to flooding indicate that development should be restricted. This is a material consideration of considerable force weighing against the proposal. It also means that it is unnecessary for the Council to demonstrate that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.
21. Reference has been made to other residential approvals near to the appeal site. The localised risk from surface water flooding appears to alter from one site to another and I have not been presented with substantive evidence explaining the flood risk of the sites referred to. Therefore, from the evidence before me I am satisfied my decision would not be inconsistent with those already made by the Council.
22. The Water Management Officer withdrew a holding objection but also advanced reasons for refusal. Their position on the case is unclear and therefore not determinative. The current application was a resubmission but the preceding scheme was not determined and is thus of very limited weight.

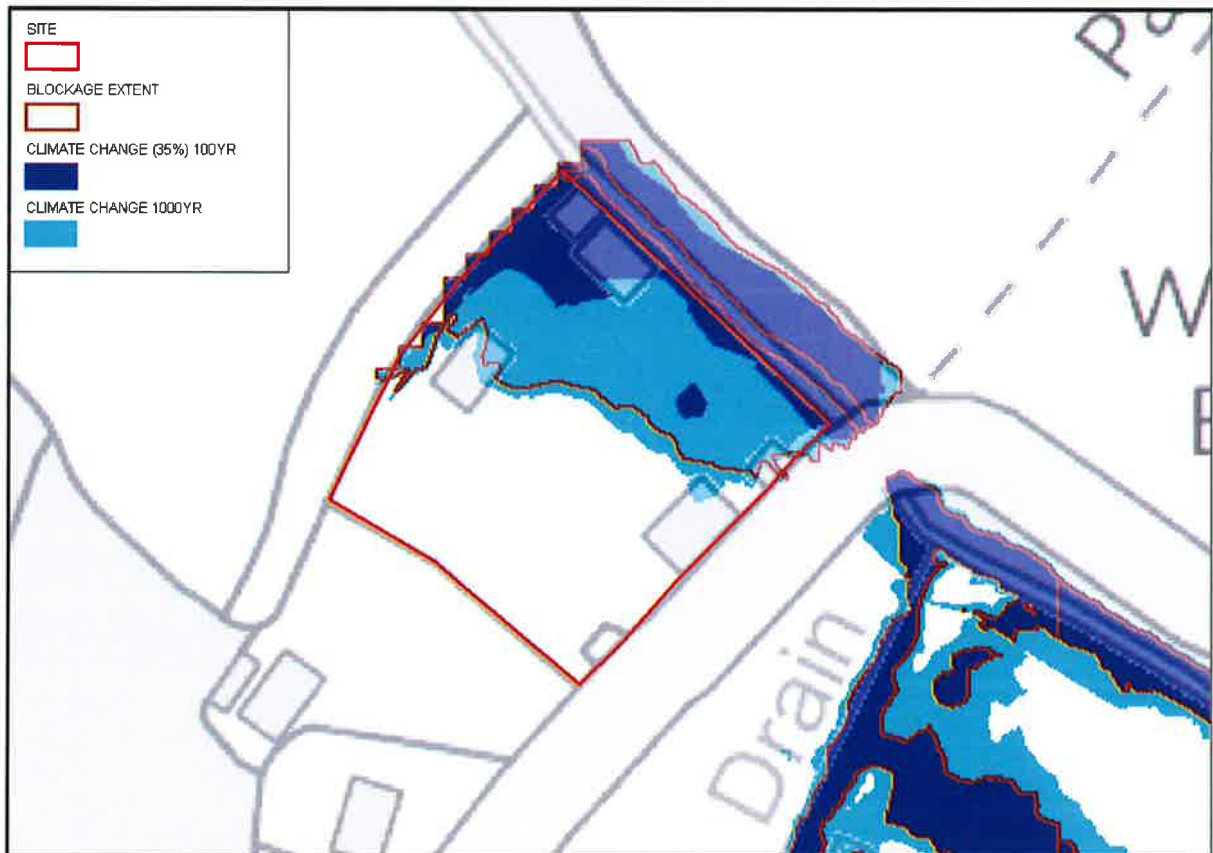
### **Conclusion**

23. The appeal scheme would be contrary to the development plan and material considerations do not indicate planning permission should be forthcoming in spite of this. Accordingly, I conclude the appeal should be dismissed.

*Graham Chamberlain*  
INSPECTOR

**Table 18: Results comparison for 50% blockage of culvert opening during climate change 1 in 100 year event**

Blockage 50%			Original Results			
Node	Max Stage (m AD)	Max Velocity (m/s)	Node	Max Stage (m AD)	Max Velocity (m/s)	Stage Difference (m)
section 10b	16.392	1.244	section 10b	16.391	1.243	0.001
section 11b	16.341	1.475	section 11b	16.341	1.474	0
section 12b	16.365	0.684	section 12b	16.365	0.684	0
section 13b	16.329	1.052	section 13b	16.329	1.053	0
section 14b	16.314	0.615	section 14b	16.314	0.615	0
section 15b	16.289	1.016	section 15b	16.289	1.016	0
section 16b	16.243	0.936	section 16b	16.242	0.936	0.001
section 17b	16.127	1.415	section 17b	16.126	1.414	0.001
section 18b	16.077	0.969	section 18b	16.076	0.969	0.001
section 19b	16.022	0.978	section 19b	16.022	0.978	0
section 1b	17.533	0.372	section 1b	17.257	0.547	0.276
section 2b	17.531	0.321	section 2b	17.251	0.568	0.28
section 3b	17.527	0.334	section 3b	17.237	0.593	0.29
section 4b	17.525	0.278	section 4b	17.234	0.483	0.291
section 5b	17.524	0.32	section 5b	17.23	0.575	0.294
section 6b	17.523	0.286	section 6b	17.228	0.521	0.295
section 7b	17.521	0.26	section 7b	17.223	0.505	0.298
section 8b	17.515	0.381	section 8b	17.2	0.711	0.315

**Figure 30: Blockage flood extent in relation to 100yrCC and 1000yrCC event**

## **8. CONCLUSIONS**

- An InfoWorks RS model has been developed to determine the fluvial flood risk to the site from the adjacent watercourse.
- The results show that the site is located within the Flood Zones 3b, 3a, 2 and 1.
- The results show that the site would be affected during all climate change flood events.
- A sensitivity analysis has been carried out in which the model was tested for a change in channel roughness, change in downstream slope and partial blockage of the downstream culvert. The results indicate that the model is not significantly sensitive to a change in roughness and downstream slope.
- However, when considering the blockage scenario, there is a large increase in flood extent during the climate change 1 in 100 year event.



A Squared Architects, May 2020

***Application 2020/0051/F – Erection of a self-build dwelling to replace an existing tennis court on land to the rear of 37 Watton Road, Colney***

**SUPPORTING STATEMENT FOR CONSIDERATION BY COMMITTEE MEMBERS**

This statement is presented for consideration by committee members following the recommendation for refusal of planning application 2020/0051/F.

The application is supported by a planning statement which provides a detailed assessment of policy considerations, this statement addresses the reasons for refusal as set out in the officer's report, which are as follows:

*Reasons for refusal*

1        *The site is approximately 550m from the nearest part of the development boundary that has been defined for Colney to the east. The nearest bus stop is approximately 220m to the west. This bus stop is accessed via trod path on the opposite side of Watton Road and offers a frequent bus service to and from Norwich. Although there is a path, its unbound nature is such that it may not be attractive to use or suitable for use for those with mobility or sensory difficulties or those with pushchairs. The location of the site is such that in reality, in order to access key services such as convenience shopping, community facilities and the GP surgery, residents will likely rely on their private motor vehicles. The application is therefore contrary to Policies 1 and 6 of the Joint Core Strategy and Policy DM3.10 of the South Norfolk Local Plan Development Management Policies Document 2015.*

2        *The proposed development is not supported by any specific Development Management policy which allows for development outside of the development boundary and nor does it represent overriding benefits when having regard to the harm identified. As such, the application does not satisfy the requirements of either items 2 (c) or (d) of Policy DM1.3 of the South Norfolk Local Plan Development Management Policies Document 2015.*

**ASSESSMENT OF REASONS FOR REFUSAL**

**1**

With respect to item 1, the reason for refusal concerns the nature of the existing footpath and how practical it would be for members of the public to use the footpath to access public services.

The trod footpath is currently well used by residents of Colney and the wider public, having been installed by Norfolk County Council it is entirely safe and fit for purpose.

In their consultation response NCC Highways considered the footpath and concluded that the nature of the footpath would not be sufficient to refuse the application on its own. Furthermore, there are no objections on highway safety grounds.

The footpath provides access to a regular bus service with the nearest bus stop being 220m away, well within acceptable distances which determine whether a site can be considered sustainable.

The footpath links to cycle ways and footpaths accessing Colney, Cringleford and the centre of Norwich as well as providing safe access to a regular bus service.

The application therefore meets the relevant policies of the Joint Core Strategy and the Local Plan.

## 2

With respect to item 2, the reason for refusal concludes that the application does not represent overriding benefits when having regard to the identified harm.

The potential harm is in relation to development in the countryside, however, the specific characteristics of the application site mean that the development would lead to no material harm to the surroundings.

The site is not visible from the public realm and leads to no harm with respect to the character of the area, it is adjacent to an existing cluster of dwellings served by an existing access. The proposal has been carefully designed to reflect the characteristics of the site and locality.

The application conforms to planning policy with regards to the character and appearance of the area. There is therefore no identified harm with respect to impact on the landscape setting.

The application provides material benefits, particularly with respect to environmental and social considerations. The key benefits arising out of the proposal, both for the village of Colney and the wider area are as follows:

### **Environmental**

- The application would lead to a net ecological gain, incorporating permanent bird and bat boxes integrated into the fabric of the building and habitat features supporting and encouraging wildlife.
- Care has been taken to ensure that the impact upon the surrounding area is minimised and acceptable through careful design and siting.
- The design has taken particular care to minimise any impacts on the established woodland and trees within the site and seeks to fit around the existing features.
- The proposal includes high-quality low energy design and materials appropriate to reflect the existing character of Colney.
- The new dwelling's proposed location within the site involves the redevelopment of an existing hard landscaped area within an established clearing in order to maintain the existing ecological setting. The proposed new access drive and any hardstanding would be of a no-dig and permeable specification.

### **Social**

- The applicants have been active members of the Colney community for many years. They have contributed and continue to contribute substantially to the well-being of the community. Their continued presence within Colney village and contributions to the well-being of the community will lend support to the sustainability of the village in the future.
- The proposal will help the Council towards delivery of the self-build requirement as required by the Self-build and Custom Housebuilding Act 2015.
- Over previous generations Colney has established a strong community feel with an active parish council and village hall but is a village which in order to maintain and sustain this community feel will need small scale development, appropriately located within the existing grouped setting such as in this proposal.

- The social role within the NPPF also refers to meeting the needs of present and future generations and Paragraph 50 of the NPPF sets out in principle the support for the provision of self-build housing, which includes the requirement to 'deliver a wide choice of high-quality homes, widen opportunities for home ownership and create inclusive and mixed communities.

#### **Economic**

- Where possible the applicant is keen to use locally sourced materials which will provide a short term boost to local construction and building material suppliers within the area.
- The proposal will permit the applicant to work from home.

The application therefore proposes benefits which are not outweighed by identified harm.

#### **CONCLUSION**

It is proposed that the site is sustainably located and allows pedestrians and cyclists to access public services.

The proposal demonstrates, as required by Policy DM1.3, overriding benefits in terms of the economic, social and environmental dimensions of sustainable development and responds appropriately to the relevant local and national planning policies.

The proposed development would not introduce any adverse impacts or cause harm to the countryside which would significantly and demonstrably outweigh the benefits.

Having regard to the specifics of the application site, its connectivity, the lack of identified harm and the benefits outlined above, it is put forward that the planning permission be granted subject to conditions.



**Application 2020/0051/F – Erection of a self-build dwelling to replace an existing tennis court on land to the rear of 37 Watton Road, Colney**

**PERSONAL STATEMENT IN SUPPORT OF APPLICATION BY APPLICANTS: Adam Korn, Applicant**

This application is for a house for my family to live in, to be close to my parents, our children's grandparents.

I am a barrister practising from chambers in London (7 Bedford Row). My wife, Dr Melissa Korn, is a General Practitioner specialising in palliative care, based at the St Stephens Gate Medical practice in the city. She works at the surgery Mon-Fri, undertakes home visits and provides Out of Hours cover.

We were both brought up in Norfolk. I in Colney, my wife in North Norfolk. We met at Wymondham College. Before that, I went to primary school in Cringleford. We both went away to university but when Rosie, our eldest child, was born, we moved back to Norwich to be closer to both sets of grandparents.

In her former career, Melissa was an NHS manager and, before she studied medicine as a second degree at the University of East Anglia, was a Director of the N&N Hospital, and was responsible for planning the move of the hospital from St Stephen's Road to Colney.

We have known for some time that we want to live in Colney, to be close to my parents, and that we want to build our own house.

In 2002, we first applied for permission to do this on the disused tennis court in my parents' garden. When that was refused, we bought a house in Norwich, within walking distance of Norwich High School, where both of our daughters went to school. They are now at university in London, and we have decided to try again to build a house close to my parents, in their garden.

We are a close family. My brother and I grew up in Colney. My parents have lived there for 45 years. For most of the past 45 years, my mother has served, in one capacity or another, as a member of the Committee of Colney Parish, including 10 years as Clerk. My parents have combined countless hours of voluntary service to the Parish with exceedingly busy lives, because they love Colney and have a strong sense of civic duty. We would like to contribute to that community too, and our lives are at a point where that would be possible.

My job has changed a great deal over the last 10 years, and I am working more from home, as Courts become more familiar with conducting hearings by telephone or video conference call. That does not mean (as the Planning Officer queried at one point) that I see clients at home. As a barrister I am not allowed to do that, as it is a referral profession. I can only see clients in the presence of a solicitor, at solicitor's offices or my chambers. 'Working from home' means, for me, sitting at my computer conducting legal research, writing legal opinions, or conducting hearings with judges on the telephone or via video call.

My understanding is that since 2002, much has changed in planning law. And in 2009 the Colney Parish Plan identified a strong desire within the parish for families to live in Colney, so that a residential community with deep roots may continue to thrive.

I should like to be on hand to help my parents look after their home and the woodland that surrounds it, which the family is returning to native woodland for the first time since it was sold by the Barclay family to make way for a commercial plantation. This would mean a great deal to me, my wife, our children, and my parents.

We are disappointed that the Planning Officer is not supporting our application, and have read his report carefully. We respectfully suggest that our application seems to meet the aims of planning law and the Parish Plan, and are not sure what 'harm' has been identified. If my family thought that by this application they risked harming Colney in any way, we would never have submitted it.

Before submitting this application, we canvassed opinion within Colney to try and ascertain whether any family currently living in Colney would consider that they would be adversely affected by it. No objection, or even adverse comment, was made. Had it been, we would have thought again.

We understand that in 2009, Colney published its Parish Plan in accordance with the Government's 2000 White Paper setting out its intention for the countryside. The Plan had a 91% response rate and, because Colney has such a small population, each person's view has a proportionally greater impact on the overall position than is the case in larger parishes. We note that all of the respondents had, *'The earnest hope ... that when discussions are held about Colney and decisions taken on matters which affect it, the wishes and aspirations of its residents, as expressed in the Parish Plan, will be fully taken into account.'*

In response to Question B28: *'Would you like to see any more houses built in Colney?'* The majority of respondents wanted, *'limited new build for residential use....to enhance and continue residential community in Colney especially needed for the church and parish rooms. All building should be ecological and carbon neutral.'*

We suggest that our application satisfies DM1.3(d) in that it meets an expressed social requirement of the parish, and that our proposal would constitute *'limited new build for residential use'*. The proposal is for a new home that we have tried to ensure is well-sited, in a cluster of dwellings that form an integral part of the parish. We have specifically worked with an architect experienced in carbon neutral new build homes, to make the house as low-impact as possible, and to sit as comfortably and naturally in its setting as possible.

Having grown up in Colney, I have seen a good deal of commercial development in the parish – the NNUH, the Spire Hospital, the woodland burial ground, the Research Park, the Global Clinic at Colney Hall – but in that time hardly any residential homes have been built. We consider our application falls into the category of the limited, ecologically-sensitive, residential development for which parishioners expressed a strong wish in the Parish Plan.

It is very important to us that we have the support of the parish in our application, and have tried to work with the committee to produce a proposal that, we believe, will enhance and contribute to Colney as a residential parish, rather than detract from it.

We would be so grateful for the opportunity to build our own, ecologically sensitive, home, on the site where I grew up, so that three generations of the family can continue to enjoy and contribute to the life of the parish.





**Application No: 2020/0051/F Parish: COLNEY**

**Applicant's Name: Mr Adam & Mrs Melissa Korn**

**Site Address Land to the rear of 37 Watton Road Colney Norfolk**

**Proposal Erection of new self-build dwelling to replace an existing tennis court**

### **Views of Colney Parish Meeting**

Colney Parish Meeting disagrees with the recommendation of the Planning Officer, Glen Beaumont, that this application should be refused planning permission.

Colney Parish Meeting supports this application and trusts that the Development Management Committee (DMC) will recommend its approval.

The Meeting is mindful of the general wish by South Norfolk Council to support sustainable development in laid out in its opening declaration in Policy 1.1 of its Local Plan.

*The Council will work proactively where possible with applicants to find solutions so that development proposals can be approved wherever possible, and to secure development that jointly and simultaneously improves the economic, social and environmental conditions in the area.*

We take this to mean that if there is a fine balance of seemingly conflicting issues then the DMC will judge on the side of good sustainable development.

Mr Beaumont claims he is guided by Policy 1.3 of the Local Plan.

*For the purposes of the Development Management policies, the area outside of the defined development boundaries of the settlements is referred to as Countryside...Only in exceptional cases consistent with specific Development Management Policies or site allocations will development proposals in the countryside be supported by the Council.*

We note the reference to “exceptional cases consistent with...site allocations...” and believe that the site allocations in this case meet and indeed enhance the conditions of sustainable development at this location.

In our original submission to the DMC, as summarised by Mr Beaumont, we said:

*It meets the broad provisions of sustainable development in that the applicants are proposing a building which is highly energy efficient and water use conserving, constructed with materials which are sustainable in energy terms and appropriate to the cluster of existing buildings in the vicinity, and will be owned by residents of the village with a long term social and economic commitment to the*

*wellbeing of the village. In addition the applicants propose to enhance the biodiversity of the location.*

We note that Mr Beaumont accepts that the application conforms to the relevant local planning policies pertaining to

- Impact on the character and appearance of the area
- Highway safety
- Trees and ecology

The two reasons offered for refusal by Mr Beaumont are that the site location does not meet the sustainable transport requirements as laid out in Policies 1 and 6 of the Joint Core Strategy and Policy 3.10 of the South Norfolk Local Plan, and that the balance of benefits to sustainable development do not outweigh the consideration of offering permission outside the Village Development Boundary, as laid down in Policy DM 1.3.2(d).

We see a single dwelling with up to two additional cars which from time to time (bearing in mind the likely continuation of working from home wherever possible) enter an already busy road. The improvements to the Watton Road have successfully sought to meet the sustainable transport requirements as suggested in Policy 6 of the JCS, and support the sustainable transport policies of the Norwich Research Park. We also see a self-build house which meets the relevant requirements of the first 9 bullet points laid down in Policy 1 of the JCS.

We note that these points in the above paragraph show that the application conforms to the requirements of Policy 3.10 (1) of the South Norfolk Local Plan. It supports sustainable transport and development objectives, it utilises all opportunities to integrate with local sustainable transport networks, and it is designed to reduce the need to travel and to maximise the use of sustainable forms of transport appropriate to the location.

Colney Parish Meeting would further like to draw to the attention of the DMC that the footpath to the south of the Watton Road was hard won by the Parish with the tremendous support of its local Members, and especially acknowledges the generosity of the grant for construction obtained by Councillor Bills. This is a perfectly useable footpath which adds to the case for sustainable transport in this particular location.

Colney Parish Meeting therefore believes the balance of judgement between whether exceptionally to permit development outside the Village Development Boundary and the genuine commitments by the applicants to meeting the overall benefits to sustainable development in this location, meets the spirit of supportive accommodation offered by South Norfolk Council in conforming to its obligations under Policy 1.1 of its Local Plan.

Colney Parish Committee urges the DMC to approve this application.

Local Member Comments – Application 2020/0051/F (Land to the rear of 37 Watton Road, Colney, Norfolk)

Dear Chairman and Members,

Daniel Elmer and I requested that this application be considered by the full Development Management Committee because it is a finely balanced application. As your Officer report sets out there are many positive aspects to it but balanced against them is the simple fact that this is an application outside the development boundary; thus the starting point for your deliberations is that it should be refused unless you can identify benefits to override the harm that would occur from approving an application outside the development boundary.

We believe there are a number of benefits that may override this, including:

- Environmental Protection – Application is Passivhaus standard, and effectively on brownfield land.
- Traffic Congestion – Application is designed and intended to facilitate homeworking, and is situated on a main bus route.
- Economic Development – Application is self-build with attendant economic benefits for the district.

These are set out in more detail below.

### **Summary**

South Norfolk **Policy 1.3 (2) (d)** sets out:

*Permission for development in the Countryside outside of the defined development boundaries of Settlements will only be granted if (the application) ... d) Otherwise demonstrates overriding benefits in terms of economic, social and environment dimensions as addressed in Policy 1.1.*

**Policy 1.1** says that “the Council will take a positive approach that reflects the presumption in favour of sustainable development, together with a responsibility to meet...other unforeseen development needs and opportunities”. It also says that “the Council will work proactively where possible with applicants to find solutions so that development proposals can be approved wherever possible, and to secure developments that jointly and simultaneously improves the economic, social and environmental conditions in the area.”

Clearly the Council should not be looking for reasons to refuse applications but should be being positive and proactive. For example, the report in questions looks into particular negatives around a footpath which we have addressed further down.

### **Environmental Protection**

This application is effectively for a brownfield site (an old tennis court) located within a cluster of houses and adjacent to two employment sites rather than in the open ‘countryside.’ As your report notes, there are no objections from neighbours or statutory consultees and is supported by the parish meeting.

The application is well-designed to a 'passivhaus' standard<sup>1</sup> dwelling with net ecological gains. It is also set back from the road and shielded from view, posing no visual intrusion.

### **Sustainable Transport (DM3.10)**

As previously mentioned, it has been also suggested that this application does not accord to South Norfolk **Policy DM3.10** (the promotion of sustainable transport). At **paragraph 4.3** the statutory consultee notes that a pedestrian footpath is available and public transport is also available at an acceptable distance. **Policy 3.10 (d)** sets out:

*"All development should support sustainable transport and development objectives, utilise all opportunities to integrate with local sustainable transport networks, be designed to reduce the need to travel and to maximise the use of sustainable forms of transport appropriate to the location."*

Given the site is located next to a bus route and with pedestrian access to it is unclear on what basis this application does not accord to policy DM3.10. It is suggested in your officers report at para 5.6 that the issue is with the nature of the footpath. However a number of applications in South Norfolk and Broadland have been approved subject to footpaths without lighting being installed – for example the Food Hub at Easton/Honingham and as the Highways Officer noted in his email to the Case Officer on this matter, at Wymondham College. Whilst there may be a 'planning judgement' to exercise – it must be exercised consistently and logically. Footpaths are a cost effective and more sustainable way of improving the connectivity of our communities whilst preserving the character of these places. We note also that when considering the infrastructure requirements for the appraisal of sites put forward for the village cluster sites as part of the next local plan allocation process this Council did not specify that footpaths had to be lit or flat, smooth etc.

Further it is noted that this reason for refusal would not be sufficient to refuse this application in its own right.

It is intended to be used by the applicants to work from home (in the future once we have a choice about where we can work from) and as such accords with South Norfolk's **Policy DM 2.3** and we note that that policy encourages home working as it "reduces(s) traffic congestion and pollution" (**para 2.15**).

### **Economic Development**

This application is also for a self-build development so is deliverable with the attendant short and medium term economic benefits for the district, including for local builders and suppliers, which we as a Council must particularly be mindful of in the current climate. Indeed **para 81 (d) of the NPPF** sets out:

*"Planning policies should: d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances."*

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<sup>1</sup> Passivhaus is a building standard for the most efficient use of energy for the purposes of heating and cooling.

The application is also adjacent to major employment zones, including the UEA, N&N Hospital and Norwich Research Park.

## **Conclusion**

The question for the committee is that on the one hand there is the harm from permitting this application outside the identified development boundary contrary to the local plan outweighed by the benefits of this application. South Norfolk policy DM1.1 in paragraph (a) talks of *overriding benefits in terms of economic, social and environment dimensions* and para (b) talks of *improves economic, social and environmental conditions in the area*. In para 1.10 of our development management policies there is a helpful diagram that sets out how we judge the impact in each of these economic, social and environmental dimensions.

This application has a positive impact from an environmental dimension as it is a passivhaus standard construction and brings positive ecological gains. It is also designed to allow the applicants to work from home which our own policy encourages to reduce pollution and congestion. It is a single dwelling to be self-built so will bring short and medium term economic benefits to the district – whether it is for builders, merchants or self-employed tradespeople involved in construction.

In respect of the social benefits – our policy 1.1 sets out that the planning system should be about “*supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being*”. This application does meet the requirement of present and future generations – it is a ‘passivhaus’ designed to allow for homeworking – designed sensitively to enhance the environment. It is also near local services which it is accepted by our officers are accessible.

We would therefore contend that this application does have positive social benefits alongside the aforementioned economic and environmental ones and in the absence of any identified harm would urge you to approve this application.

Yours sincerely,

William Kemp & Daniel Elmer

