



## Appeal Decision

Hearing Held on 5-6 May 2021

Site Visit made on 7 May 2021

**by I A Dyer BSc (Eng) FCIHT**

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

**Decision date: 28 June 2021**

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### **Appeal Ref: APP/L2630/W/20/3256206**

#### **Land North East of Becket's Grove, Wymondham, NR18 0GF**

- 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 United Business and Leisure (Properties) Ltd and Landstock Estates Ltd against the decision of South Norfolk District Council.
  - The application Ref 2019/0184, dated 21 January 2019, was refused by notice dated 13 February 2020.
  - The development proposed is the erection of up to 150 residential dwellings including affordable housing, with the provision of new vehicular, pedestrian and cycle access from Norwich Common, incorporating open spaces, sustainable urban drainage systems, associated landscaping, infrastructure and earthworks.
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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 save for access. I have assessed the proposal on this basis and treated all of the drawings as simply being an illustration of how the proposal could ultimately be configured.
3. The Greater Norwich Local Plan Regulation 19 (the GNDLP) document has been published but has yet to be examined and found sound. I therefore afford limited weight to this document in my consideration of the proposal.
4. Prior to commencement of the Hearing the appellants submitted a Supplementary Statement dated April 2021. The document updated the appellants' position with regard to the Council's five year supply of housing land (5YSHL) and the application of the policies within the development plan in response to the Council's Written Statement. These matters are relevant to my determination of this appeal and the Council had reasonable opportunity to consider the document in advance of the hearing and comment during it. I have therefore accepted this late evidence as no party would be prejudiced by me doing so.
5. I have similarly accepted the Council's written comments on the appellants' Supplementary Statement, an email from a developer pursuant to a disputed site on land at St Faiths Road, Old Catton, an update regarding the discharge of conditions at Persimmon Homes development at Elm Farm, Wymondham and a decision notice for the discharge of condition 3 of planning permission 2019/0536. This is because the documents are relevant to the matters in

dispute, were addressed at the Hearing and no party would be prejudiced by my consideration of these documents.

6. During the Hearing I was also provided with a copy of Habitat management for bats A guide for land managers, land owners and their advisors, published by the Joint Nature Conservation Committee -2001. As this document is a public document, has a bearing on my consideration of the effects of the proposal and both parties had the opportunity to comment in regard to its contents during the Hearing I do not consider that anyone would be prejudiced by my consideration of it.
7. The appellants submitted a draft Agreement under Section 106 of the Town and Country Planning Act 1990 (Section 106 Agreement) which provides for 40% affordable housing, deals with the management of open space and the provision of a travel plan. It was agreed at the Hearing that the Section 106 Agreement fulfils the tests stipulated by the National Planning Policy Framework -2019- (the Framework) and that both parties are content with the wording. At the Hearing I received emails confirming the position of the County Council as a signatory of the planning agreement. I adjourned the Hearing to allow the required parties to complete the agreement and have since received the completed document. I have therefore taken this document into account in my consideration of the proposal.

### **Main Issues**

8. The main issues in this appeal are:
  - The effect of the proposal on the character and appearance of the site and the surrounding area;
  - The effect of the proposal on hedgerows; and: -
  - Whether the site is a suitable location for housing, having regard to local policy for the provision of housing.

### **Reasons**

#### *Character and appearance*

9. Policy 2 of the JCS and Policy DM4.5 of the DMPD together seek to ensure that all development, amongst other things, respects, conserves and, where possible enhances the landscape character of its immediate and wider environment. The policies are thus in close accord with the aims of Sections 12 and 15 of the Framework.
10. The appeal site is an open field, bounded by mature hedges containing trees, lying adjacent to Wymondham. The site shares one boundary with the Elm Farm housing development and another with the Becket's Grove housing scheme, which is at an advanced stage of construction. It also adjoins the recently completed Wymondham Rugby Club ground.
11. Whilst the new residential development will, when completed, present a dense, urban form, the rugby club site retains a sense of openness, with the main building situated towards the middle of the site. The site is floodlit, but the lighting columns are situated towards the southern part of the site.

12. Beyond the other two boundaries of the appeal site are open fields. These and the wider countryside are relatively flat, but contain very gentle valleys, on occasion affording longer views across the landscape.
13. The site, at the time of my site visit, contained an arable crop. It has a grass verge around it, within the hedges. Within the grass verge on the western side of the site runs a public footpath (FP26), linking the openings in the hedges and this, together with the verge around the field, was being used by people for exercise and recreation. Land to the north and east of the site and beyond, is predominately agricultural in nature but contains sporadic development. To the west of the site lies Melton Road. The interposing landscape forms a shallow valley, affording views across to the site from the road.
14. The appeal site sits clearly outside of the built up area of the town and in the countryside and there is a clear division between the two as logically defined by the settlement boundary. Being undeveloped and verdant in appearance the appeal site reads as part of the countryside and its enclosure within hedged boundaries reinforces the sense of rural peace and tranquillity, notwithstanding that, during matches and training, noise is likely to drift from the adjacent rugby club.
15. The appellants Landscape and Visual Appraisal which identifies that the land lies within the Landscape Character Type D Settled Plateau Farmland as identified in the South Norfolk Landscape Assessment (SNLA), specifically Landscape Character Area D1: Wymondham Settled Plateau Farmland.
16. Amongst the key characteristics the SNLA identifies the area as a large expanse of flat, sparsely wooded, landform containing large scale arable fields, with little variation over long distances, containing a settled landscape with large edge-of-plateau town and villages with smaller, nucleated settlements which are dispersed across the plateau. Hedges in the wider area are generally poor, accentuating the openness of the landscape, although it is noted that networks of more intact hedgerow sometimes occur near settlements. The appeal site exhibits many of the features identified as being typical of the Wymondham Settled Plateau Farmland landscape character.
17. There is some variation in the size of fields in the area and whilst not as expansive as some, the appeal site is by no means atypical. The hedgerows surrounding the field exhibit some gaps but the southern and western boundaries, closest to the town, are denser and more continuous. Within the site this provides a degree of screening of the urbanising features of the new residential development, the rugby clubhouse and its associated lighting. Whilst there are partly screened glimpses of the new buildings from within the field, these are mainly of the housing within the developments to the south and west.
18. The proposal would introduce up to 150 dwellings into the site, and it is indicated that some could be three storeys in height. Notwithstanding that the proposal is in outline form, such a composition of the development would result in a dense urban form. Whilst it is intended that the northern part of the site would be an open space, and that buildings of lower height would be located in this part of the site, this would inevitably remove the openness of the field, blocking views to the open countryside to the east from the footpath, and harmfully jar with the peaceful rural character of the site and its immediate environs in that direction.

19. The illustrative form of development would not be incongruous with those of its neighbours to the south and south-west. Furthermore, whilst the proposal would effectively extend the settlement out into the countryside without a gap, the extended settlement of Wymondham would remain on the edge of the plateau. However it would spread built form incrementally further into the open, verdant countryside. I note that the SNLA identifies loss of vernacular character as a result of such sprawl as a particular sensitivity and vulnerability of the character area.
20. The site is adjacent to, though not part of, the Wymondham to Hethersett Strategic Gap, as defined on the Wymondham Area Action Plan -2015- Proposals Map. Given the layout of surrounding development, including Elm Farm and the rugby club, the proposal would not extend the built form of Wymondham closer to the neighbouring settlement of Hethersett. However, given the relatively undeveloped nature of the rugby club, with its very limited built form, the proposal would extend a dense urban sprawl north into the more open land, altering the balance between urban and rural landscape in favour of urban form.
21. Overall the proposal would urbanise the character and appearance of the site and this increased urbanisation, together with the reduction in verdancy of the site resultant from the increase in built form, would significantly harm the open, tranquil, rural character and appearance of the site and the surrounding area.
22. This would be readily apparent to anyone passing through the site on Footpath 26 or walking within the perimeter of the site. There would be long views from Melton Road and, although walking access to nearby land has recently been curtailed, from the wider countryside including nearby dwellings. In these views the extension of built urban form out into the countryside would be apparent. Whilst views from Footpath 26, as it runs between Melton Road and the northern site entrance, are screened by existing hedges, these hedges contain some significant gaps and some views in which the proposed development would appear would remain, albeit restricted by interposing planting, across the open area of the rugby club, particularly in winter when trees are carrying less leaf.
23. The appellants propose strengthening of the hedges surrounding the site to limit views of the development from outside the site and offset the loss of a section of the hedge in the creation of the access. Further they propose, through a building height parameter plan linked to a drawings condition, to limit the height of buildings in the northern part of the site. Were I minded to allow this proposal, building heights could be further constrained during the reserved matters applications, if I omit the Illustrative Masterplan from the list of approved documents. During my site visit I observed that, whilst the adjacent sites have a degree of screening, views of development, albeit limited, are still available from the wider area. Future planting would take time to establish itself and there is no evidence before me, particularly given the intended height of the buildings towards the centre of the site and the lie of the land between the site and Melton Road, that planting would successfully address the harmfully visible urban nature of the proposal. This would remain apparent to passers-by within the site and from Melton Road and the surrounding countryside, as is the case with Becket's Grove.

24. I note that, south of the site, Footpath 26 runs between Becket's Grove and Elm Farm and that this area already has a more urban character. However this does not justify the further change in the balance of the users' experience of the footpath from rural to urban.
25. I therefore conclude that the proposal would result in significant harm to the character and appearance of the site and the surrounding area. The proposal would therefore be contrary to Policy 2 of the JCS and Policy DM4.5 of the DMPD.

#### *Effect on hedges*

26. Hedgerows contribute to the environment, both in ecological and landscape terms. Policy DM4.5 of the DMPD seeks to safeguard the landscape character and distinctive landscape characteristics of the area. Policy DM4.8 of the DMPD seeks to retain hedgerows that are 'important', as defined by the Hedgerows Regulations 1997 (the Regulations), together with other significant hedgerows. Through its wording Policy DM4.8 allows, even where a hedgerow is significant, removal where the benefits of development would clearly outweigh the loss of the hedgerow. The aims of these policies are in close accord with the aims of Sections 12 and 15 of the Framework.
27. The hedge lying along the southern boundary of the site is mature and, although thin over limited lengths, contains no significant gaps. A ditch runs along the hedge, and during my site visit I noticed that it was somewhat overgrown in places.
28. During the course of the application the appellants, along with other documents assessing the ecological effect of the proposal<sup>1</sup>, submitted Ecology Technical Note TN2: Consideration of Effects on Important Hedgerows. This concluded that the hedgerow would be likely to qualify as an 'important' hedgerow under the wildlife and landscape criteria of the Regulations.
29. During the Hearing I heard that the hedgerow has the necessary number of species and features present within it to pass beyond the threshold set by the Regulations. Once this threshold is passed there is no further gradation in the Regulations: the hedgerow is either 'important', or it is not. Albeit that there is no positive designation of the hedgerow I consider that the hedgerow is likely to be 'important' within the meaning of the Regulations.
30. The proposal would remove 15 metres of the hedgerow to create a vehicular and pedestrian access. The section to be removed would lie between mature trees, but not necessitate their removal. Whilst the point at which the hedgerow would be breached is established on the plan, the proposal has been submitted in outline form and there is some leeway to mitigate the layout of the breach to address the effects of the creation of a gap through design.
31. I note that, in the response to consultation on the proposal, the County Council's Ecologist accepted, in response to the information supplied at that time that they had no objection to the proposal, subject to the imposition of suitable conditions and this position is reflected in the Statement of Common Ground. Whilst the County Ecologist said that they were unaware that the

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<sup>1</sup> Ecological Appraisal, Arboricultural Impact Assessment, Technical Briefing Note: Great Crested Newt eDNA Survey Results, Ecology Technical Note, TN2: Consideration of Effects on Important Hedgerows

- hedgerow was 'important', the likelihood of it's being such was made clear in the supporting documents.
32. The Council submit that the County Ecologists views were in relation to the overall application and I heard that the hedge would facilitate the movement of certain species present in the area for foraging and other needs. However, I heard that the bat species likely to be present in the area can cross open spaces, although they tend to use hedgerows for shelter. This notwithstanding, the break in cover provided by the hedgerow would disrupt the movement patterns of creatures using it as a linear route and this disruption would constitute material harm. Further, the gap would also be a road crossing which would, of itself, create a threatening environment for wildlife crossing it.
  33. At the Hearing potential design features were discussed, including the incorporation of dropped kerbs and positioning of planting to facilitate movement. External lighting was also discussed. The adjacent site, Becket's Grove is at an advanced stage of construction and I noted that, whilst footways have been surfaced with wearing course, no street lighting columns have been installed. Whilst there is no certainty that street lighting would be provided within the proposed development, given the lack of provision on the adjacent development I consider it unlikely.
  34. Given the limited length of the gap and scope for the incorporation of features to facilitate the movement of creatures, such as dropped kerbs, planting to minimise the gap I consider that, by the use of appropriate conditions, the effect of the proposal on the movement of animals could be made acceptable.
  35. However, the proposal would introduce a new break in the hedge. This break would be visually substantial. Given the contribution that the hedge makes to the character and appearance of the site and the surrounding area, which I have described above, this gap would be notable and undermine the degree of continuity of hedging.
  36. Bringing these strands together, the loss of a length of hedge would compound the harm that I have found above to the character and appearance of the site and the surrounding area and result in some harm to the ability of fauna to move around the area. However, the benefits of providing 150 new homes to supplement the Council's housing stock, which I will discuss later, would clearly outweigh the harm to the character and appearance of the site solely resulting from the loss of a relatively short length of the hedge.
  37. The Regulations allow for removal of short sections of hedgerow for carrying out development for which planning permission has been granted or is deemed to have been granted. However, the proposal must also be acceptable in planning terms.
  38. Therefore I conclude that the proposal would result in material harm to the hedgerow and would be contrary to Policy DM4.5 of the DMPD. However, as I have found that the benefits of the proposal would clearly outweigh the harm to the hedgerow itself, the proposed development would be in accordance with the provisions of Policy DM4.8 of the DMPD.

*Suitable location for housing*

39. The JCS sets out a spatial strategy which seeks to locate development, including housing, in locations with access to goods and services whilst



protecting the natural environment from inappropriate development.

Wymondham is identified on Map 1.3 (1) of the DMPD as a Main Town, suitable for the location of significant development. However, the site lies outside of the identified settlement boundary. It is therefore in the countryside for planning purposes where development will only be permitted subject to the exceptions set out in the Council's countryside policies.

40. Section 1) of Policy DM1.3 seeks to restrict development to allocated sites or sites within the development boundaries of Settlements defined on the Policies Map, which includes Wymondham, as a Main Town. The appeal site is in neither and is therefore at odds with the first limb of this policy. However Section 2) of the policy allows development outside of the development boundaries if one of two criteria apply.
41. To satisfy these criteria, the development must either be allowed under specific Development Management Policies, or otherwise demonstrate overriding benefits in terms of economic, social and environmental dimensions as addressed in Policy 1.1 of the DMPD. Policy 1.1 of the DMPD ensures that development accords with the aims of the Framework in encouraging sustainable development. For benefits to be 'overriding' they need to be of such force that they are more important than any other consideration.
42. Policies, such as Policy DM 2.11 and DM3.2 of the DMPD identify exceptions for certain types of housing that would make them acceptable in policy terms. No argument has been made that the proposal accords with any of these exceptions. However, it has been suggested that the site demonstrates such overriding benefits as to outweigh any harm.
43. The proposal would provide an additional 150 dwellings to supplement the Council's housing supply. 40% of these would be provided as affordable housing. The development is located adjacent to a settlement which has a very good level of existing services and which benefits from sustainable transport linkages to the wider area.
44. For reasons that I go into later the Council is able to demonstrate a supply of housing land in the region of 5.58 years and is therefore contributing a significant boost to the supply of housing in the Greater Norwich Area. However, the identified housing need is not a maximum figure and at the Hearing it was identified that there is a commitment to provide significant economic growth within the Greater Norwich City Deal.
45. The Greater Norwich City Deal aims to promote economic growth particularly in the City Centre and to the North East of Norwich. Whilst the site has good transport links to the City Centre, transport linkage to the growth areas targeted to the North-East is, from the evidence before me, most likely to be much more dependent upon use of the private car.
46. Notwithstanding that the site lies on the transport corridor between Cambridge and Norwich, and has been identified for strategic employment growth, this growth is linked to an overall growth strategy set out within the Development Plan, including local housing growth to support employment.
47. The site would provide 40% affordable housing and this would be secured by a Planning Agreement. Historically, the Council has been unable to satisfy targets for affordable housing. More recently, however, the Council has reassessed its

affordable housing need within its Strategic Housing Market Assessment (SHMA) and, against this, the Council has been performing better, although a shortfall remains.

48. Whilst the assessment of affordable housing need has altered from that originally identified in the Development Plan, this is not unusual with the passage of time and the Development Plan makes provision for revising need based upon more recent information. I note that the SHMA has not been independently reviewed, but, again, this is not unusual, nor is there any requirement for independent review and there is little substantive evidence before me to doubt the findings of the SHMA.
49. Although the proposal is in outline form, there is an indicated intention within the masterplan to include a number of 1- 1½ storey dwellings within the scheme. Although the building of such dwellings is generally not as common as it has been historically, I noted during my site visit a number of such dwellings on Becket's Grove, the adjacent site. It would therefore be reasonable to assume that, locally, there is a benefit to developers in provision of such dwellings within the housing mix, and that provision of such dwellings would be included elsewhere, if the developer identified a market, or other, need. Nevertheless such provision would contribute a benefit by providing a more varied housing mix, including homes more suited to adaptation for mobility needs.
50. Taken together, the provision of 150 new dwellings, including an elevated level of provision of affordable homes where there is an identified shortfall, with a proportion of single and one and a half storey development would, notwithstanding the ability of the Council to demonstrate a 5YSHL, be a benefit carrying significant weight in my decision.
51. The site would provide support for the local economy in terms of short-term employment in the construction industry, and supply chain. There would also be longer term support to both local businesses and those in Norwich itself. Given the position and transport linkage of Wymondham, it is reasonable to assume that the benefit of the additional spending would be likely to be spread between the town and the City. Given the scale of the development and the split of spending of future residents between Wymondham and Norwich, where the spend is more likely to support national businesses rather than local, I give this benefit moderate weight.
52. The proposal would provide increased economic activity by contributing towards schemes to be provided by Community Infrastructure Levy payments. However there is no evidence before me to demonstrate local benefit from such projects, given their more strategic nature and so I allocate little weight to this benefit.
53. The proposal would provide environmental benefits. Whilst the Masterplan provided is illustrative only, it is intended that there would be supplementary planting along boundaries to reinforce existing hedgerows and to soft landscape the northern part of the site. There is no dispute that the proposal would provide an overall benefit in ecological terms, and although the field and its arable crop would be lost, this is unlikely to support a significant wildlife population, whilst the increased area of planting including the contribution from hedgerows would improve and provide habitat that could support wildlife, including improved foraging routes.



54. Whilst the proposal would introduce a gap in the hedge and disrupt a potential foraging route, I am satisfied that this could be mitigated through the detailed design of the scheme by the introduction of mitigating measures. Thus this gap is unlikely to significantly disadvantage local foraging species. There would be overall ecological benefits at the local level and these would be important and I allocate these benefits moderate weight.
55. It has been brought to my attention that this site is better positioned to take advantage of sustainable transport connections than other development that has received permission elsewhere in the Greater Norwich Area, or in locations that are identified for growth within the Development Plan. However, the Development Plan takes an overall strategic view of development throughout the area. I have, in any case, determined this appeal on its own merits.
56. The proposal would result in harm, both in undermining the broad thrust of the Council's spatial strategy to locate development in settlements and protect the natural environment and, as a consequence, plan-led decision making. This together with the harm that I have identified to the character and appearance of the landscape, including visual harm associated with the creation of the gap in the hedge are significant factors weighing against the scheme and overall they are matters that outweigh the benefits in this instance.
57. The test in Policy 1.3 2 d) of the DPD requires that, in order to be acceptable under that policy, development should demonstrate an overriding benefit. In these circumstances the benefits are not so compelling as to constitute overriding benefit.
58. The appellants have brought my attention to several appeal decisions where weighting was allocated to benefits accruing from the proposal and a balance was carried out of those benefits against the harm resultant from the proposal. Whilst it is needful that there be consistency of approach in assessing weight, the balance and its outcome are specific to each case and I have considered the proposal before me on its own merits.
59. My attention has been particularly drawn to a recent decision at Memorial Hall, Brundall<sup>2</sup> for a residential development of similar scale, in which the appellants identify that the benefits of the proposal outweighed the harm that the Inspector identified to the development strategy and to the character and appearance of the area. However, I note that this proposal included, amongst its identified benefits, for the provision of a Country Park which delivered many aspects of an identified infrastructure project plan known as Witton Run GI Project. I do not, therefore consider the cases to be comparable to such a degree as to set a precedent. I have, in any case, determined this appeal on its own benefits.
60. I therefore find that the site is not a suitable location for housing, having regard to local and national policy for the provision of housing and is contrary to Policies DM1.1, DM1.3 and DM3.2 of the DMPD.

## **Other Considerations**

*Five-year housing land supply*

*Housing requirements and deliverability*

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<sup>2</sup> Planning Inspectorate Ref: APP/K2610/W/19/3239986

61. There is no dispute between the parties that the strategic policies in the development plan were adopted more than 5 years ago and have not been updated. It is agreed that the housing requirement should flow from the local housing need calculated by using the standard method set out in national planning guidance.
62. The parties are also in agreement that the geographical area for which the 5YSHL should be calculated is the whole of Greater Norwich and that the relevant 5-year period is 1 April 2020 to 31 March 2025. The local housing need based on the standard methodology is 10,040 dwellings. Over the previous 3 years the Housing Delivery Test shows a significant number of completions in excess of requirement meaning that the test is passed and that a 5% buffer is applied. This gives an overall figure of 10542 dwellings.
63. In its latest Greater Norwich Area Housing Land Supply Assessment at 1st April 2020 (the HLSA) the Council indicates that its deliverable supply is 12,998 dwellings and that it can demonstrate a 6.16-year supply, producing a surplus of 2455 homes. The appellants dispute this and believe that it is, at best, 5.21 years (a 442 dwelling surplus), or, in a worst case scenario, 4.72 years (a 595 dwelling deficit). This is on the basis that delivery rates are overly optimistic and/or that the deliverability of the site is questionable.
64. In regard to deliverability I have considered this against the advice in the Framework and Planning Practice Guidance (PPG). The Framework includes a rigorous approach to the issue of deliverability. It makes clear that the site must be available and in a suitable location for development to take place now and that there should be a realistic prospect that housing will come forward on the site within 5 years.
65. The PPG provides advice on assessing whether a site has a reasonable prospect of being developed. The onus is on the Council to justify its forecast delivery for sites with outline planning permission. The Council have provided evidence in support of their approach in assessing the numbers of dwellings that have deliverability within the five year period. I will make a more detailed assessment of this evidence on a site specific basis later.
66. However, as a general point the appellants have questioned the basis of the Joint Delivery Statements and the reliability that can be placed upon them. These documents have been produced by the cooperation of professional persons with knowledge of the sites in question and these persons are signatories to the document. I therefore give these documents significant weight in my decision.
67. Whilst the full impact of the Covid pandemic has yet to emerge, at the time that the documents were produced, the authors already had experience of the effects of the pandemic upon their methods of working, supply chains and other factors. Support is being provided by government to the building industry and citizens to offset the short term effects of the pandemic, and it seems likely that, given the government's commitment to the supply of housing, it will continue to support provision and delivery. I therefore consider that, whilst there is greater uncertainty in the situation than usual, those most intimately concerned with the delivery of the sites are still in a strong position to judge that delivery.

68. The advice sets out that a site may be considered deliverable where it has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register where there is clear evidence that housing completions will begin on site within five years.
69. During the course of the Hearing there was discussion regarding the use of local delivery rates, rather than national average delivery rates for housebuilders or rates contained in other publications such as Litchfields<sup>3</sup>.
70. Whilst, in the absence of more accurate data, national averages for housebuilders or Lichfields can provide a useful starting point for the consideration of timescales of delivery, there is no reason in this instance to use those figures rather than local figures where there is robust justification to support the use of the alternative.
71. The makeup of the supply figure comes from various sources but principally comes from two categories as defined within the Framework. The main dispute in this respect relates to the sites within the second category. These are mainly the sites with outline planning permission, and it is the appellant's case that the Council is overly optimistic as to the quantum of housing that will be delivered by these over the 5 year period.
72. The evidence indicates that historically the Council has not met its forecast completions. However, it is relevant that this has improved recently and in the last 3 years the requirement has been exceeded by a significant amount. Nonetheless, the evidence suggests that the Council has historically been overly optimistic with its forecasting and that performance has repeatedly lagged behind prediction. The Standard Method, however, factors in under-delivery and, when measured against this, the Council is performing well.
73. The Council has brought to my attention a number of recent appeals in which the housing land supply was not challenged or in which the housing supply was examined and a 5YSHL found. However, any assessment will be a snapshot in time and depend on the evidence that has been presented. In the appeal that is before me the appellants have challenged the supply and provided detailed evidence in support of their view. I have, in any case considered this case on its own merits.
74. Various factors may influence the delivery of housing, not least the prospects of the national economy. The country is currently combatting a pandemic and the future repercussions of this are still unclear. Bearing all of this in mind I now turn to the delivery of housing in the Greater Norwich Area and my conclusions regarding its delivery.

#### *Windfall sites*

75. A significant proportion of the delivery forecast by the Council is dependent upon 'windfall' and small sites coming forward. At the Hearing we heard the Council's approach to assessing likely windfall numbers is based on historic data, gathered over a ten-year period. This extended period would cover fluctuations within the housing market.

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<sup>3</sup> Start to Finish: What factors affect the build-out rates of large scale housing sites? 2nd Edition -2020-, produced by Lichfields

76. The Council removed larger sites from the figures for Broadland and South Norfolk but retained those within Norwich City. This is because such sites are rarer in the more rural areas, where they are likely to only come forward outside of identified development envelopes, and thus only under specific conditions that are less reliable, but not infrequent in the urban area of the city where a greater number of sites would be anticipated to benefit from prior approval. Within the city, contributions from such permitted development would be likely to remain or, given the current approach of government to extending permitted development rights, could increase in the future. The Council considered that the inclusion of such sites over the whole of their area would provide an overly optimistic figure. The Council have also stepped their forecast over the period to avoid double counting. The precautionary approach taken by the Council provides a realistic assessment of the contribution that windfall sites can make to the overall supply of housing. Thus no change should be made to the 5YSHL on the basis of the supply of 'windfall' sites.

*Smaller sites*

77. In regard to the contribution made by smaller sites, the Council has provided a list of extant permissions and the Framework glossary definition of "Deliverable" would include these "unless there is clear evidence that homes will not be delivered within five years".
78. At the Hearing there was discussion around the inclusion of sites where planning permission was granted some time ago, yet those sites remain on the list. The Council explained that the list would include sites where permission had been implemented, but had not yet been completed, but accepted that some sites which have started may not be built out, just as some extant permissions will never be implemented. The Council has applied a "lapse rate" of 27% to allow for such losses and provides, in the appendices to the Joint Core Strategy for Broadland, Norwich and South Norfolk: Annual Monitoring Report 2018-19 -2020- the basis for this assumption.
79. The figure has been calculated from historic figures for non-delivery or completion, again over a 10 year period, taking the higher rate for the three Councils whose administrative areas contribute to the Greater Norwich Area, to provide a more conservative figure. I consider this method sufficiently robust as to give confidence in the Council's figure for anticipated completions and the number of dwellings to be provided by small sites should be retained.

*Other sites*

80. Prior to the Hearing the Council acknowledged that the current evidence suggests that insufficient progress has been made to satisfy the requirements of demonstrating deliverability on sites at the Norfolk Learning Difficulties Centre; the Former Piggeries site at Manor Farm, Yarmouth; Land at Jordan's Scrapyard Phases 2 and beyond at the Royal Norwich Golf Club, Hellesdon; land west of Burlingham Road, South Walsham; west of Norwich Road, Dickleburgh; Main Road, Swardeston; Land adjacent to The Fields, Tacolneston; Church Road, Tasburgh; and Friarscroft Lane, Wymondham. These sites would remove 388 homes from the 5YHLS.
81. The parties agreed that when applying the Council's ratio of 2.85 student rooms being the equivalence of a single dwelling being occupied solely by students, a figure which the appellants confirmed their acceptance of at the

- Hearing, the sites at 112 St Milfred's Road and St Stephen's Street would reduce the contributions that these sites would make to the 5YSHL by 2 units and 36 units respectively when compared to the Council's starting position.
82. At Mary Chapman Court the Council agreed with the appellants that the development was a replacement for existing student accommodation, but identified that, in calculating the equivalencies for student accommodation, the development would remove an additional 7 units from their trajectory of provision, resulting in the removal of a total of 107 units
83. The appellants provided information demonstrating that Taylor Wimpey's national output had dropped in 2020/2021, delaying delivery. The Council agreed that delivery had been delayed, but considered that, although delivery on site has now commenced, the delay was greater than that estimated by the appellants, necessitating the removal of an additional 17 dwellings to that suggested by the appellants, thus removing a total of 31 dwellings.
84. There is agreement between the parties that the development on Land South of Salhouse Road, Sprowston has experienced delays and that two years delivery should be removed from the 5YSHL. The Council, however, consider that the effect of this is to reduce their supply by a total of 240 units, rather than the 200 suggested by the appellants.
85. There is agreement between the parties that the development at London Road/Sutton Lane, Wymondham has experienced a delay in commencement. The Council, however, consider that the effect of this is greater than that proposed by the appellants, and, rather than reducing supply by 20 units, the actual reduction to supply in the period would be 100 and I have accepted this higher figure.
86. The Council concede that the site South of Long Lane, Stoke Holy Cross appears in their trajectory twice, resulting in an elevation of their projection by 10 units. I have, therefore removed 10 units from the trajectory. These changes to the 5YSHL would decrease supply by 526 units
87. Turning to the larger sites that remain in dispute, in advance of the discussion the parties agreed a "Scott Table" agreeing the disputed sites as an aid to focus the discussion.
88. In regard to Land North of Norwich Road, Acle this site has now made a start on site. Whilst the appellants dispute the date for the earliest completions, a Joint Delivery Statement has been produced with Lovell Homes and this includes a delivery forecast with a relatively modest build out rate of 34 units per year. On the information before me there would seem no reason to doubt that delivery could be achieved to the programme set out. Therefore the contribution of this site to the 5YSHL remains unaltered.
89. Turning to the site on Land adjacent to the former railway line, Rectory Road, Coltishall, the appellants have noted that the 2017 consent on the site has expired and that a full application, yet to be determined, has been submitted. This has resulted in a delay, but assuming delivery based upon the timescales within Litchfields the site is still deliverable in full within the period. The Council do not dispute this approach, which would leave the 5YSHL unaltered. The appellants have further argued that, as the site lacks detailed consent it should be removed completely from the trajectory. As I have covered above, the lack

of a detailed consent is not an absolute impediment to concluding that a site has a reasonable certainty of delivery within the time period. In this case the site has a previous consent, with a full application before the Council, albeit undetermined. There is clear evidence before me to demonstrate that the development could be built out within the period under consideration, albeit that the start has been delayed. For these reasons the full contribution to delivery made by the proposal is retained.

90. Having regard to the parties' positions with regard to Land adjacent to Hall Lane, School Road, Drayton, this site benefits from an outline application, granted in February 2020. A full application was submitted in March 2020 for 267 dwellings. The appellants argue that, applying Lichfields start to finish would allow only 1 year of delivery within the period and that, in any case the site lacks a detailed consent. The site now benefits from a resolution to approve the full application. Given the history of the site and its development by an established regional housebuilder, who is also the applicant, the requirement to market and dispose of the site is not needed, lessening the lead-in time prior to commencement. I note that the delivery rate proposed by the developer is less than the national average from Lichfields, indicating a more cautious approach to delivery by the developer. Taking these factors into account I have retained the contribution that this site makes to the 5YSHL.
91. The site on the former Davis Rice Hospital on Drayton High Road is the subject of a reserved matters application currently pending determination. Whilst currently the site lacks detailed consent, there is clear evidence that the site is progressing and there is nothing before me to cast doubt that this development will not proceed within timescale and is therefore a deliverable site. However, the Council have pointed out that 12 of the units proposed are now anticipated to be delivered as shared dementia care accommodation, thus, by applying the equivalencies to dwelling houses for communal accommodation, the site will only deliver 18 dwellings in its proposed form, rather than 29. Thus I have removed 12 dwellings from the supply in the period.
92. The Former Lingwood First School, Chapel Road has a reserved matters application awaiting determination. The site benefits from outline permission and has several reserved matters applications to discharge conditions. Although there is no absolute certainty that all of the reserved matters applications will be discharged in time to progress the site within the period, this demonstration of steady progress indicates a commitment to development on the part of the developer. For these reasons I have retained the contribution of the site to the 5YSHL.
93. There is agreement between the parties that the equivalency of 1 dwelling to 8 units in a residential institution reduces the contribution of the site at Old Station Yard, Cawson Road/Stoney Lane to 12 dwellings and so 2 dwellings are removed from the 5YSHL.
94. Having regard to the site on land off Broomhill Lane, whilst this is an allocated site and a full application was submitted in March 2020, there is an objection to the proposal from Sport England. I have no information before me as to the substance of the objection but, if not resolved the proposal would need to be referred to the Secretary of State for determination. Given this uncertainty over deliverability I have removed the contribution made by this site from the



supply of housing land within the five year period and the 5YSHL is reduced by 83 dwellings.

95. The parties agree that the equivalency dwellings to units in a residential institution reduces the contribution of the site at Oasis Sport and Leisure Centre to 12 dwellings and so 3 dwellings are removed from the 5YSHL.
96. In regard to the site on land at St Faith's in the "Growth Triangle", the Council provided an email from Taylor Wimpey giving an update on the site. This site is already under construction and the email provides a programme of delivery. This email states that 24 dwellings will be delivered during 2020/2021. The delivery rate projected is higher than would be predicted using average figures during the earlier years of the build-out. However, these are specific delivery rates informed by the developer with regard to local conditions with which they are familiar. In view of this I have retained the full quota of housing provision for the site as projected.
97. I now turn to the Growth Triangle site on Land South of Moorsticks, Buxton Road. Despite a reserved matter application being submitted some time ago, that remains undetermined. Reconsultation has recently been carried out and it is clear that this site is still progressing. Given the small scale of the development this site still has a reasonable prospect of delivery within the remaining part of the period and I have retained the 19 dwellings in the supply.
98. Moving on to the Growth Triangle site at Beeston Park, this site now has secured a considerable sum of development funding from Homes England. Other significant progress has been made identifying a third party to deliver the site, moving towards the discharge of conditions with a design code agreed. The first phase could have three sub-phases, each with a separate party delivering and thus build-out rates would not be markedly dissimilar to delivery rates identified in Lichfields, although I note that the Council have taken a more cautious approach to the timetable for delivery than the site promoter. I consider the approach robust and that evidence of deliverability is provided. I have therefore retained all of the projected figure of 300 dwellings within the 5YSHL.
99. In regard to Phase 3 of Land to the South of Salhouse Road, within the Growth Triangle, this site is to be provided by Barratt/David Wilson Homes under separate branding, rather than as a single outlet. Given their experience in the local market on similar sites the build-out rate that they have provided, based on that experience, provides evidence that there is a realistic prospect of deliverability to programme and I have retained the full quantum of 400 houses that this development is anticipated to supply within the 5YSHL.
100. Moving on to the site on Racecourse Plantation, Plumstead Road East, there is now a delivery partner selected. I consider that sufficient evidence exists to demonstrate that the site is progressing with a reasonable prospect of delivery within the period. Therefore I have made no amendment to the 5YSHL.
101. In considering the site on land North of Smea Lane, Great Plumstead, the Council acknowledges that this site has not progressed in accordance with the Joint Delivery Statement that it had agreed with Barton Wilmore. From the evidence before me no significant progress to delivery has been demonstrated and, in consequence, I have reduced the 5YSHL by 140 dwellings.

102. At the Hearing it was agreed between the parties that there has been clear progress demonstrated for the site on land East of Broadland Business Park in as much as the site has planning permission for the hybrid application made in October 2018 and a Section 106 Agreement has been completed. I have therefore made no change to the five year supply of housing land in regard to the contribution made by this site.
103. Moving on to the Growth Triangle North Rackheath site, with a contract agreed and pre-application discussions taking place with a view to submission of a full application for the first phase, which does not require all infrastructure to be provided in advance, I consider that there is a realistic prospect of delivery of the 50 dwellings currently in the period prior to its end.
104. The Growth Triangle site on land South of Green Lane West has full planning consent, albeit later than anticipated in the Joint Delivery Statement for the site. As two developers will be delivering the site it is reasonable to expect that the deliverability of the full development within the timeframe is achievable and I have made no change to the 5YSHL on this basis.
105. Whilst the delivery rate is questioned and the site is subject to an outline application awaiting determination, the Growth Triangle site at White House Farm (North East) is on an allocated site and has a resolution to grant permission. I therefore consider that there is a reasonable prospect of delivery. It will be delivered by three separate housebuilders with experience of delivery based on progress that they made on their adjoining site. The reliance upon the delivery rates projected by the developers, in light of local knowledge, presents a more reasonable basis for estimating delivery than the consideration of average rates garnered nationally. I have, therefore, retained the full allocation of 378 dwellings in the 5YSHL.
106. The site at the Royal Norwich Golf Club, Drayton High Road, Hellesdon is a continuation of a site already being built out. Issues regarding a Tree Preservation Order which prevented the site being considered earlier have been resolved. Steady progress to delivery has been demonstrated and the site now has reserved matters permission. Given the remaining time within the period under consideration and that the developer is already on the adjacent site, the delivery of all of the proposed units within the timeframe is not unreasonable at the build-out rate being achieved on the earlier phase and so I have added 142 units to the current supply.
107. Bracon Ash, Norwich Road is a site allocated within the development plan and pre-application discussions have commenced. An application was anticipated to be submitted by the end of 2020, but none has yet been made. Whilst a local housebuilder is identified to take the site forward and pre-application discussions have taken place, no timescale for delivery has been provided to demonstrate that this will occur within the period. I have, therefore removed the 20 dwellings identified for the site from the 5YSHL.
108. Two housebuilders have submitted applications to build the remaining stages of the development at Roundhouse Park, Cringleford. Of the two outstanding applications one has a resolution to approve planning permission. The other site has a Lead Local Flood Authority objection and there is no clear evidence before me that this can be overcome. I therefore consider that, whilst there is a realistic prospect of delivery of 18 dwellings by the first application, no such

certainty exists at this time with regard to the second and remove 32 dwellings from the 5YSHL.

109. In regard to the NP allocation, south of the A11 at Cringleford (2014/1494), this site has been allocated a considerable grant of monies by Homes England under the 'Local Authority Accelerated Construction Programme'. This is backed up by an associated legal agreement committing the developer to performance in delivery. The purpose of this is to speed up the delivery process and so it is not unreasonable to expect better performance than national averages provided by Lichfields would anticipate. The proposal is in the process of clearing reserved matters applications and, in these very specific circumstances it is reasonable to expect such delivery. I have, therefore retained the full allocation of dwellings in the 5YSHL.
110. In regard to the Cringleford NP allocation, south of the A11 (2018/2200) the predicted completion rate is challenged. However in the nearby development at Roundhouse completion rates similar to those predicted were achieved and thus use of the local rate is justified and so I have retained the entire predicted contribution to the 5YSHL.
111. A local agent has confirmed that the Vinces Road site in Diss is available, viable and can be delivered at the point envisioned, which is towards the end of the period. The site is allocated in the development plan and so there is a clear evidence of deliverability of the site. The 35 dwellings that this site would contribute are thus retained in the 5YSHL.
112. Both parties agree that, as the site at Park Road, Diss, lies within an area identified as being within a Zone 1 Flood Risk it is not demonstrably deliverable in the five year period and so 15 dwellings are removed from the period.
113. In regard to the site on land N & S of Dereham Road, Easton, the site achieved its approval for its first reserved matters application in line with the developer's programme and the site is being marketed with two brands. The developers have based their projections on delivery rates achieved on their assessment of comparable sites, albeit that these are not in the immediate vicinity. From the evidence that is before me I consider that the site is demonstrably deliverable in line with the Joint Delivery Statement timescale for the site and so the full allocation of 280 dwellings is retained in the 5YSHL.
114. Moving to the consideration of Land at Yarmouth Road/West of Hales Hospital, Hales this site is allocated in the development plan and has benefit of an outline permission. Whilst the Council are more cautious of the timescale for delivery, this is a small site and there is leeway for slippage from the agent's programme before delivery would fall beyond the period under consideration. I have therefore retained the contribution that this relatively small site makes within the 5YSHL.
115. The Joint Delivery Statement for this site confirms the availability, viability and, in the opinions of the Council and a local agent, the deliverability of the allocated site at Sprickett's Lane/Lime Close, Harleston. The site is progressing through formal pre-application advice and is developing drainage and service strategies. The stated intention is to market the site this year, which the Council consider would allow the first 15 units to be delivered on site in 2024/2025. The Joint Delivery Statement forecasts delivery of 95 homes by the end of March 2023. Given the uncertainty over timescale I have removed all of

the allocated contribution of this site from the 5YSHL, reducing projected numbers by 95 dwellings.

116. Phases B1B and B2 of the site at North Village, Hethersett already benefit from detailed planning permission and are being built out, with B1B nearing completion. The projection for completions is non-linear, but such build out would not be exceptional. The uplift in delivery in 2021/2022 would be challenging for a single housebuilder brand on one site. I have therefore adopted a more cautious approach in this instance and reduced the supply by 22 dwellings to reflect a lesser delivery rate, more in line with that for other years.
117. In regard to the Long Stratton LNGS1 AAP Allocation Site, this has a pending hybrid application, with the first phase submitted in full detail. Funding has been provided from government to progress infrastructure delivery. The programme has reflected this by allowing a prolonged lead-in time and a reduced build-out rate. I also note that up to 150 dwellings can be provided in advance of infrastructure provision. Given the holding objection from Highways England and the need for a business case for the by-pass to be submitted for the works, on the evidence before me there is still uncertainty on timescale for delivery of the full development, nonetheless I have retained the 60 dwellings from the early phase in housing supply over the time period.
118. The site on land off Denmark Lane, Royden is owned by the developer, a local building company and, on the basis of the information provided in the evidence before me the site is demonstrably deliverable within the time period. I have therefore retained its contribution of 42 dwellings.
119. The Joint Delivery Statement for the site at Old Norwich Road, Scole, which is identified in the Neighbourhood Plan and as an allocation in the development plan, identifies an intended date to submit an application in November 2020, This date has passed and there is no new information identifying a programme of delivery. Given this uncertainty and lack of progress I have removed its contribution of 25 dwellings from the supply for the period under consideration.
120. At Devon Way/Hudson Avenue full planning permission was granted following the lapse of an outline consent for the site, the development permitted being for a second phase of an adjacent scheme at White Horse Lane. The trajectory for buildout of the two phases overlaps, and the same developer will be working on both sites. However, this developer has a local history of building out different phases in parallel and has projected a build-out rate substantially lower than averages for national housebuilders. From the evidence before me the programme and build-out rates are achievable, albeit with the builder working on two phases of the same development. I have, therefore retained all 63 dwellings proposed to be delivered within the time period within the 5YSHL.
121. The Council confirmed at the hearing that a resolution was passed at South Norfolk Council's Development Management Committee on 5 May 2021 to approve a full application for 23 dwellings on land to the rear of Georges House, Woodton. In view of this the parties agreed that the development is demonstrably deliverable within the time period and thus I have made no change to the 5YSHL.

122. Five reserved matters applications have been submitted in 2020 and 2021 to develop land at South Wymondham. Whilst these reserved matters applications have yet to be determined except one, the site adjoins an existing site being delivered by the same housebuilders and form part of the same Local Plan allocation, sharing common elements of the Section 106 Agreements to deliver joint infrastructure. Progress has been shown towards delivery of the sites and there is no dispute between the main parties that delivery rates can be achieved. I have therefore retained the full contribution of the site to the 5YSHL.
123. Argyle Street is an allocated site within the Norwich City Local Plan and is identified on the Norwich Brownfield register. The allocation is retained in the GNDLP. The City Council, who will be the developer, owns the land. It has been cleared and funding allocated for development. I consider that the site has a demonstrable likelihood of delivery within the timeframe set out in the Delivery Statement and so I have retained its contribution of 14 dwellings in the 5YSHL.
124. 10-14 Ber Street is another site in the ownership of Norwich City Council's property development company, Norwich Regeneration Ltd. It is an allocated site within the Norwich City Local Plan and is entered on the Brownfield Register. The allocation is retained in the GNDLP. Whilst a business case has yet to be put forward and a planning application submitted, the timetable for doing so has been identified. I consider that there has been demonstrable progress towards delivery of the dwellings within the timeframe of the assessment. I have, therefore, retained the site's contribution to the 5YSHL.
125. Mile Cross Depot is an allocated site within the Norwich City Local Plan and is entered on the Brownfield Register. The allocation is retained in the GNDLP. The City Council owns the land and it has been cleared. Norwich City Council has approved a development option for a social housing scheme for 150 dwellings, and potential to increase this up to 200. I consider that commitment has been shown to development and progress made towards delivery. However, given the uncertainty remaining over the scale of the scheme I have removed 6 dwellings from the contribution it makes to the 5YSHL, to reflect the lower figure identified by Norwich City Council.
126. In regard to the Queens Road and Sturry Street site there was agreement at the Hearing, following explanation of the composition of the proposal, and calculation of the equivalences between studio flats, student rooms and dwellings, that the proposal would deliver the equivalencies to dwellings as included within the figure in the 5YSHL and so no change is made.
127. Moving on to the Three Score site at Bowthorpe, this is an allocated site within the Norwich City Local Plan and the allocation is retained in the GNDLP. Norwich City Council owns the land and development has already taken place on phases having detailed consent. Design work on later phases, however, indicates a reduction in numbers from those provided in the Joint Delivery Statement. The site is progressing and so I have retained a contribution within the 5YSHL total, albeit that this is reduced by 7 dwellings to reflect the reduction in predicted delivery.
128. Finally, the site at Duke Street was discussed and the Council clarified that the most recent permission for the site is that which is considered within the 5YSHL and the basis upon which they calculated in equivalencies between

student accommodation and dwellings. On this basis the figure of 406 dwellings is retained in the supply.

129. Taken together the above figures would reduce the 5YSHL by an additional 320 dwellings, and the overall reduction against the Council's original figure of 12,998 would be 1,234. Giving a supply of housing land over the five year period that would provide 11,764 dwellings. This would provide a supply of housing land of approximately 5.58 years. Therefore the balance under Section 11 d) of the Framework is not, in this instance, engaged on the basis of a lack of a 5YSHL.

#### *Planning policy context*

130. At the Hearing there was a debate as to whether the most important policies for determining the application are out-of-date. Paragraph 11d) of the Framework is precise in its language. Its reference to "application" rather than "appeal" means that it is those policies relating to the consideration of the whole scheme rather than those matters in dispute at the appeal that should be included. However, "most important" policies does not mean "all relevant" policies and it is a matter of judgement for the decision-maker to decide what these may be. It is the basket of most important policies as a whole that is the relevant consideration.

#### *The most important policies*

131. There was general agreement between the Council and the appellants that the Policies specifically referred to in the Council's decision notice were amongst those which constitute the most important policies in this case. These being Policy 2 of the JCS<sup>4</sup> and Policies DM1.1, DM1.3, DM3.2, DM4.5 and DM4.8 of the DMPD<sup>5</sup> fall into this category.

132. There was dispute, however, regarding Policy 4 of the JCS. Whilst this policy is relevant, in that it seeks to ensure the delivery of housing to address local demand, the application specifically sets out a proportion of affordable housing, which would be secured within the planning obligation. There is no dispute between the parties that the proportion proposed exceeds the current requirement within policy and so this matter is not a determinative issue within this appeal. I therefore consider that, whilst clearly relevant to the consideration of a housing proposal, it does not fall within the category of most important in determining the appeal.

133. The most important policies to this application proposal are thus as follows:

- JCS: Policy 2
- DMPD: Policies DM1.1, DM1.3, DM3.2, DM4.5 and DM4.8

134. Whether development plan policies are considered out-of-date in terms of paragraph 11d) of the Framework will depend on their degree of consistency with its policies, whether matters have changed on the ground or new local policies have been adopted or whether there are other material considerations which render the policy out of date. Policies 2, DM1.1, DM4.5 and DM4.8 do not fall within this category and this is not disputed by the Council or the

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<sup>4</sup> Greater Norwich Development Partnership Joint Core Strategy for Broadland, Norwich and South Norfolk (2011, with amendments adopted 2014).

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



appellants. Policy DM1.3 and the Council's spatial strategy in regard to housing is questioned by the appellants on the grounds that the Council is unable to deliver housing in line with its housing targets without reliance upon developments outside of development boundaries.

135. In support of their assertion the appellants point out that, whilst now many housing schemes lie within development boundaries, a large proportion of homes currently contributing to the 5YSHL were granted permission on sites outside of development boundaries. The Council does not dispute that this is the case, but cite a delay between the JCS setting the housing requirements and the identification of an adequate land supply, which was achieved on adoption of various Site Specific and Area Action Plan documents which allocate the sites to deliver on that requirement.
136. Prior to the adoption of those documents, the Council say that, in the absence of a land supply, it took a pragmatic and proactive approach to sites which address the lack of supply in a sustainable way without compromising other Local Plan policies. This was particularly the case where development related to sites identified as 'preferred options' in the emerging Local Plan documents. Following the Council being able to demonstrate a 5YSHL, which I still consider to be the case, the Council has concentrated on development based on a plan-led system, in accordance with Paragraph 15 of the Framework, and there is no reason to consider the spatial strategy out of date in this regard.
137. The JCS sets out a spatial strategy which seeks to locate development, including housing, in locations with access to goods and services whilst protecting the natural environment from inappropriate development.
138. Policies DM1.3 and DM3.2, amongst others within the DMPD, seek to restrict inappropriate development in the Countryside, limiting development to within identified settlement boundaries that require a countryside location. Policy DM1.3 allows development outside of development boundaries where there is an overriding benefit. As such these policies are in close compliance with the aims of Sections 2, 5, 9, 12 and 15 of the Framework and, therefore, are not out-of-date.
139. For the reasons set out above, I have found that all of the most important policies are not out of date. However, a consideration of whether the basket itself is out-of-date and therefore whether the appeal scheme complies with the development plan as a whole is a matter to which I will return in my final conclusions.

### **Planning Balance and Overall Conclusions**

140. The appeal site is within a countryside location and outside the development limits for Wymondham. There would be harm to the landscape of the area, including a hedge.
141. I have identified the most important policies for determining this application. Of these the proposed development would conflict with Policies DM1.1, DM1.3, DM3.2 and DM4.5 of the DMPD and to Policy 2 of the JCS in as much as it would result in harm to the landscape and expand development into the countryside contrary to the thrust of the Council's spatial strategy. Whilst there are some policies with which the proposal would comply, Policy 4 of the JCS

being one example as it provides a level of affordable housing above the requirements of the development plan, in my judgement the appeal scheme would conflict with the development plan when taken as a whole.

142. Paragraph 11 of the Framework establishes the presumption in favour of sustainable development. The “tilted balance” may be engaged in 2 circumstances. In relation to housing provision, I have concluded that the Council can demonstrate a 5 year supply of deliverable housing sites to meet its local housing need. In relation to the most important policies I have found that they are not out of date. Overall, I consider that the basket of most important policies is not out of date in this case. For these reasons the “tilted balance” would not be engaged.
143. I have concluded that the most important policies are broadly or closely consistent with the Framework. Whilst, historically, the Council has taken a pragmatic approach and incorporated development outside of development boundaries to their 5YSHL, it has been able to demonstrate sufficient deliverable sites without the need to include the appellant’s land. In such circumstances, overall I attribute significant weight to the conflict with these policies.
144. The appeal proposal would include a number of social, environmental and economic benefits and I have already identified these above. In my overall judgement the positive factors are insufficient to outweigh the negative ones, and do not indicate that the decision should be made otherwise than in accordance with the development plan.
145. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

*I Dyer*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Ms Morag Ellis QC Francis Taylor Building Legal Counsel

Ms Ellis was instructed by Mssrs Barton Willmore on behalf of Mr Lyndon Gill

Mr Lyndon Gill Barton Willmore Planning Planning Consultant

Mr Joshua Mellor Barton Willmore Planning Planning Consultant

Ms Lisa Toyne Barton Willmore Landscape Planning  
Landscape Planning Consultant

Mr Daniel Maughan Aspect Ecology Ecology Consultant

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Juan Lopez 39 Essex Chambers

Instructed by Ms Deborah Sharples of Birketts Solicitors

Mr Chris Watts South Norfolk Council

Mr Simon Marjoram South Norfolk Council

Mr Robin Taylor South Norfolk Council

Ms Catherine Dew Norfolk County Council Ecology Officer

## INTERESTED PERSONS

Mr Graham Tuddenham	Appellant	Observing
Mr Peter Westhorpe	Appellant	Observing
Mr Howard Bailey	Solicitor	Observing
Ms Mary Bodd	Solicitor	Observing
Ms Tracy Lincoln	South Norfolk Council	Observing
Mr Dean Shelton	Norfolk County Council	Observing
Mr James Millard	Halsbury Homes	Observing
Ms Alison Cornish	Persimmon Homes	Observing

### Documents submitted at the hearing:

1. Council's written response to the Appellants' Supplementary Statement.
2. Email from Taylor Wimpey East Anglia to Ms Dianne Barr dated 3 September 2020.
3. Habitat management for bats: A guide for land managers and their advisors. Joint Nature Conservation Committee.
4. Value Of Hedges for Wildlife Conservation. Royal Society for the Protection of Birds.
5. Landscape and Urban Planning -2012. Bat Conservation Trust
6. Email from County Council re S106.
7. Decision notice dated 3 September: Council Ref 2020/0335 Discharge of condition 3 of planning permission 2019/0536 - Construction details within root protection areas.
8. Accompanying Arboricultural Implications Assessment & Method Statement OAS 19-173-AR01 Rev F -March 2020- accompanying Document 7.