



Department for  
Communities and  
Local Government

Mrs Angela Reeve  
Turley  
9 Colemore Row  
Birmingham  
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Our Ref: APP/L2630/A/14/2227526

7 January 2016

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
PLANNING APPEAL AT LAND EAST OF A47, WEST ROUNDHOUSE WAY AND  
NORTH OF A11; AND LAND TO THE SOUTH OF A11 TO THE EAST OF A47 AND  
WEST OF CRINGLEFORD, NORFOLK (SOUTH NORFOLK DC)**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Clive Hughes BA(Hons) MA DMS MRTPI, who held a public local inquiry between 16 and 24 June 2015 into your client's appeal against the refusal by South Norfolk District Council ("the Council") to grant outline planning permission, with all matters reserved save access, for the creation of up to 650 residential dwellings, up to 2,500m<sup>2</sup> of Use Class A1, A2, A3, A4, A5 and D1 floorspace, together with highways works, landscaping, public realm, car parking and other associated works on land east of A47, West Roundhouse Way and North of A11; and land to the south of A11 to the east of A47 and west of Cringleford, Norfolk, in accordance with application ref 2013/1494/O, dated 7 August 2013.
2. On 29 October 2014, the Secretary of State recovered the appeal for his own decision because it involves a proposal for residential development of over 150 units or a site of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendations. A copy of the IR is enclosed, and all references to paragraph numbers, unless otherwise stated, are to that report.

**Policy considerations**

4. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In the case of this appeal, the development plan consists of the

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Greater Norwich Development Partnership Joint Core Strategy (adopted 2011, amendments adopted 2014) (JCS); the saved policies of the South Norfolk Local Plan 2003 (LP); and the Cringleford Neighbourhood Development Plan 2013-2026, which was formally made on 24 February 2014 (NDP). The Secretary of State agrees with the Inspector that the policies most relevant to this appeal are those referred to at IR24-29. In particular, the Secretary of State notes (IR27) that the appeal site forms part of a wider site allocated for residential development in the NDP.

5. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), the Secretary of State has paid special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess.
6. Other material considerations which the Secretary of State has taken into account include the *National Planning Policy Framework* (The Framework) and the subsequent planning guidance; as well as the *Community Infrastructure Levy (CIL) Regulations 2010* as amended.

### **Procedural matters**

7. Applications for costs were submitted by the appellants (Land Fund Limited (LFL)) and the Council against each other at the Inquiry (IR1). These applications are the subjects of separate decision letters.
8. In reaching his decision, the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 (Planning Appeal Inquiry doc LFL8). Although not considered by the Inspector, the Secretary of State is content that the ES complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the appeal proposals.

### **Main issues**

9. The Secretary of State agrees with the Inspector that the main issues relevant to this appeal are those listed at IR131.

#### *5-year housing land supply*

10. For the reasons given at IR132, the Secretary of State agrees with the Inspector that the provisions of paragraph 49 of the Framework are engaged as the Council cannot demonstrate a five-year supply of deliverable sites. The Secretary of State therefore also agrees that, as this means that, in accordance with the Framework, the relevant policies for the supply of housing are out-of-date, planning permission should be granted in this case unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

#### *Whether the Thickthorn Junction improvements meet the requirements of NDP Policy TRA2*

11. The Secretary of State has carefully considered the Inspector's discussion at IR133-143 about whether the Thickthorn Junction improvements proposed by the appellant would meet the requirements of NDP Policy TRA2 and, for the reasons given by the Inspector in those paragraphs, he agrees with the conclusion at IR143 that they would. Like the Inspector, the Secretary of State is satisfied that the junction improvements proposed would meet the likely increase in traffic and that further improvements would be provided by Highways England if required and could be based on one of the options which would not conflict with the appeal scheme.

*Impact of the appeal proposals on the ability to cater for planned growth within the Norwich Policy Area (NPA) up to 2026.*

12. The Secretary of State has also given careful consideration to the Council's concerns (IR144) that the development of that part of the appeal site to the south of the A11 for housing would have an adverse effect on planned growth in the NPA because some of this site is likely to be required to enable improvements to the Thickthorn Junction. However, for the reasons given at IR145-148, the Secretary of State agrees with the Inspector's conclusions at IR149. Like the Inspector, the Secretary of State is satisfied that there will be adequate capacity at the Thickthorn Junction until 2026 and that any necessary additional capacity will be provided by Highways England; and that there is no emerging preferred or identified improvement scheme that would be affected by the appeal proposals.

*Whether the proposed play pitches would conflict with the ability to upgrade the junction*

13. Given the Secretary of State's agreement in paragraph 11 above that any further improvements to the Thickthorn Junction that might be required could be provided by Highways England on the basis of one of the options which would not conflict with the appeal scheme, he agrees with the Inspector at IR150 that the proposed use of land to provide the play pitches required by the NDP would not conflict with the ability to deliver upgrades to that Junction. He therefore also agrees that the indicative appeal scheme would be in accordance with the NDP in that respect.

*The effect of the appeal scheme on the setting of Grade II listed buildings*

14. The Secretary of State agrees with the Inspector at IR155 that, for the reasons given at IR151-155, the appeal proposals would cause less than substantial harm to the setting of the Grade II listed Round House and that, in accordance with the terms of the Framework, that harm needs to be balanced against the public benefits of the proposals (see paragraph 17 below). Turning to the T-shaped Grade II listed building which comprises North House and the Farmhouse, the Secretary of State agrees with the Inspector that, for the reasons given at IR156-157, there would be no harm to its setting.

## **Conditions and obligations**

15. The Secretary of State has considered the suggested conditions set out in the Annex to the IR and the Inspector's comments on them at IR120 and IR158-162. He agrees with the Inspector that, for the reasons given at IR162, conditions 52 and 53 in the Annex to the IR are unnecessary and so he does not intend to impose them as part of his decision. However, he is satisfied that all of the 51 conditions set out in the Annex to this letter are reasonable and necessary and meet the tests of the Framework and the guidance and that they should therefore form part of his decision.
16. The Secretary of State has considered the Inspector's comments at IR121 and IR163 on the Section 106 Planning Obligation, a signed and sealed version of which, dated 6<sup>th</sup> July 2015, was submitted following the close of the Inquiry. The Secretary of State agrees with the Inspector (IR163) that it meets the Council's requirements and secures elements of the overall scheme that carry weight in favour of the proposals. He is also satisfied that its provisions are compliant with the Community Infrastructure Levy Regulations 2010 as amended.

## **Planning balance and conclusion**

17. As the Council cannot demonstrate a 5-year housing land supply, the provision of 650 dwellings (on land allocated for that purpose in the NDP) represents a substantial benefit; and the fact that one third of these would be affordable units provides a further benefit. There would also be economic benefits including the provision of jobs; and

environmental benefits in terms of the provision of public open space, the retention of key habitats and the provision of landscaping. Furthermore, the Secretary of State is satisfied that the less than substantial harm which would be caused to the setting of The Round House is not sufficient to outweigh the public benefits of the appeal proposals. The main harm identified by the Council relates to the fact that one of the options for the improvement of Thickthorn Junction would not be able to be pursued, but the Secretary of State is satisfied that that particular option has no development plan status and that alternative solutions would be available if required. Overall, therefore, the Secretary of State concludes that the appeal proposals accord with the development plan and that there are no material considerations of sufficient weight to justify a decision otherwise.

### **Public Sector Equality Duty**

18. In making this decision, the Secretary of State has had due regard to the requirements of Section 149 of the Public Sector Equality Act 2010, which introduced a public sector equality duty that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In this regard, and in coming to his decision, the Secretary of State considers that there would be some positive impact on protected persons arising from the affordable housing.

### **Formal Decision**

19. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission for the creation of up to 650 residential dwellings, up to 2,500m<sup>2</sup> of Use Class A1, A2, A3, A4, A5 and D1 floorspace, together with highways works, landscaping, public realm, car parking and other associated works on land east of A47, West Roundhouse Way and North of A11; and land to the south of A11 to the east of A47 and west of Cringleford, Norfolk, in accordance with application ref 2013/1494/O, dated 7 August 2013.

### **Right to challenge the decision**

20. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
21. A copy of this letter has been sent to the Council. A notification e-mail / letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

*Jean Nowak*

**JEAN NOWAK**

Authorised by Secretary of State to sign in that behalf

## Conditions

- 1) Application for the approval of the reserved matters must be made before the expiration of THREE YEARS from the date of this permission. The development hereby permitted should be begun before the expiration of TWO YEARS from the date of approval if the last of the reserved matters to be approved.
- 2) No development in relation to a phase of the development hereby granted outline permission shall take place until the plans and descriptions giving details of the reserved matters referred to above shall have been submitted to and approved in writing by the local planning authority for that phase.

These plans and descriptions shall relate to:

Appearance, scale, landscaping and layout of the dwellings and buildings forming the Use Classes A1 to A5 and D1 hereby permitted together with the precise details of the type and colour of the materials to be used in their construction.

- 3) The development shall be constructed in accordance with the following drawings:  
350/PL/002 – Site Location Plan  
350/PL/004 Rev B – Parameter Plan – Movement Hierarchy  
350/PL/005 – Parameter Plan – Land Use and Landscape  
350/PL/006 – Parameter Plan – Building Heights  
350/PL/007 – Parameter Plan – Density  
350/PL/SP\_001 Rev 03 – Indicative Sports Pitches Layout  
G871-TA008 Rev A – Site Access Round House Way Newmarket Road  
G871-TA009 Rev B – Round House Way A11 Newmarket Road  
G871-TA010 Rev A – Round House Way The Pines  
G871-TA011 Round House Way Staggered Junction  
G871-TA012 Rev A – Round House Way Site Access  
G871-014 Rev D – Proposed Thickthorn Improvement (Option 1 and 2)
- 4) No development shall commence until a phasing plan for the development hereby approved has been submitted to and agreed in writing with the local planning authority. The development shall be carried out in accordance with the agreed phasing plans (updated as necessary as the development progresses) unless otherwise agreed in writing with the local planning authority.
- 5) With the exception of site clearance works, site investigations and tree protection works, no development shall commence on site until a landscaping strategy in relation to land within the application boundary in particular directly adjoining the adjacent development site as identified within the Housing Site Allocation Area within the Cringleford Neighbourhood Development Plan (2014) is submitted to and agreed in writing with the local planning authority to ensure a coordinated approach to landscaping at the site boundaries with adjoining development. The agreed scheme shall then be implemented as such in perpetuity. This shall then inform the landscaping strategy to be agreed under condition 8 of this permission.
- 6) With the exception of site clearance works, site investigations and tree protection works, no development shall commence on site until a design code for the entire application site, with particular reference to land directly adjoining the adjacent development site as identified within the Housing Site Allocations Area within the Cringleford Neighbourhood Development Plan (2014), is submitted to and agreed in writing with the local planning authority to ensure a coordinated approach to design across the site and at the site boundaries with adjoining

development. The agreed scheme shall then be implemented through the approval of subsequent reserved matters.

- 7) The development hereby permitted within the red line of the application site as shown on Location Plan numbered 350/PL/002 shall not exceed a net density of 25 dwellings per hectare, and for the purposes of calculating this net density only land within the Housing Site Allocation Area as identified in the Cringleford Neighbourhood Development Plan (2014) shall be used in this calculation. This density shall then be demonstrated as such in subsequent reserved matters applications unless otherwise agreed in writing by the Local Planning Authority.
- 8) No development within each identified phase shall take place until full details of both hard and soft landscape works in relation to that phase have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved for that phase. These details shall include:
- proposed finished levels or contours;
  - means of enclosure;
  - car parking layouts;
  - other vehicles and pedestrian access and circulation areas;
  - hard surfacing materials;
  - minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
  - proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines etc. indicating manholes, supports etc.);
  - retained historical landscape features and proposals for restoration, where relevant.
- Soft landscaping works shall include:
- planting plans;
  - written specifications (including cultivation and other operations associated with plant and grass establishment);
  - schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
  - implementation programme.

All hard and soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out in accordance with a programme agreed in writing with the local planning authority.

If within a period of FIVE years from the date of planting, any tree or plant, or any tree or plant planted in replacement for it, is removed, uprooted, is destroyed, dies or becomes in the opinion of the local planning authority seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

- 9) No trees or hedges shall be cut down, uprooted destroyed, lopped or topped, other than in accordance with the approved plans and particulars, without the previous written approval of the local planning authority. Any trees or hedges removed without consent shall be replaced during the next planting season November/March with trees of such size and species as agreed in writing with the local planning authority.
- 10) No works or development shall take place within each phase of development until a Tree Protection Plan (and accompanying Method Statement/s if appropriate) have been submitted to, and approved in writing by, the Local Planning Authority. The submitted details are to be guided by the recommendations set out in BS5837 Trees in Relation to Construction. Unless otherwise agreed, all approved tree protection measures are to be installed prior to the commencement of development work to implement this planning permission.

The approved tree protection measures are to be maintained in good condition and observed throughout the construction period. Unless otherwise agreed in writing by the Local Planning Authority, the following activities may not be undertaken at any time within the identified Construction Exclusion Zones and fenced areas:

- the storage and/or siting of: vehicles, fuel, materials, site huts or other buildings or ancillary equipment;
  - raising or lowering of ground levels;
  - installation of underground services, drains etc.;
- 11) No works shall commence (including clearance works but with the exception of tree protection works) until full details of the ecology mitigation and enhancement measures to be undertaken as part of the scheme and timing for implementation, and a habitat management plan have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved details shall be implemented in full in accordance with the approved timetable and retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.
- 12) With the exception of any site clearance works, site investigation works and tree protection works, no development of each phase of the scheme shall take place until details, including samples and colours where required, of the materials used in the construction of the external surfaces of that phase of the development hereby permitted have been submitted to and approved in writing by the local planning authority.

The materials to be used in the development shall be in accordance with the approved details and retained in perpetuity unless otherwise agreed in writing with the local planning authority.

- 13) Prior to the commencement of development the following will take place:
- A site investigation for mineral resources will be carried out in accordance with a borehole/trial pit location plan (reference 8/0631-SK-10-P1), together with a written methodology for the investigations (also within plan reference 8/0631-SK-10-P1), submitted to and approved in writing by the Local Planning Authority in discussion with the Mineral Planning Authority.
  - This site investigation will inform a Materials Management Plan-Minerals (MMP-M). The MMP-M will consider; through particle size distribution testing, the extent to which onsite materials which could be extracted during the proposed development would meet specifications for use on site. The MMP-M shall be submitted to and approved in writing by the Local Planning Authority in discussion with the Mineral Planning Authority (Norfolk County Council).

The MMP-M should outline the amount of material which could be reused on the site; and for material which cannot be used on-site its movement, as far as possible by return run, to an aggregate processing plant.

The developer shall keep a record of the amounts of material obtained from on-site resources which are used onsite and the amount of material returned to an aggregate processing plant through the MMP-M. The developer shall provide an annual return of these amounts to the Local Planning Authority and the Mineral Planning Authority, or upon request of either the Local Planning Authority or Mineral Planning Authority.

The development shall then be carried out in accordance with the approved MMP-M.

- 14) Prior to the first occupation of any dwelling within each phase of the development, details of the proposed arrangements for future management and maintenance of the proposed streets within that phase of the development shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The agreed details shall be adhered to thereafter in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
- 15) Prior to the commencement of each phase of the development hereby permitted full details (in the form of scaled plans and/or written specifications) shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority to illustrate the following: Roads/Footways/Cycleways; Foul and on-site water drainage; Visibility splays; Access arrangements; Parking provision in accordance with adopted standard; Loading areas; Street Lighting; Public Right of Ways (PROW); and Turning areas.
- 16) Development shall not commence within each phase of the development until a scheme detailing provision for on-site parking for construction workers for the duration of the

construction period for that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period of that phase.

- 17) Prior to the commencement of any construction works within each phase of the development, a Construction Traffic Management Plan and Access Route which shall incorporate adequate provision for addressing any abnormal wear and tear to the highway shall be submitted to and approved in writing with the Local Planning Authority in consultation with Norfolk County Council as Local Highway Authority together with proposals to control and manage construction traffic using the 'Construction Traffic Access Route' and to ensure no other local roads are used by construction traffic.
- 18) For the duration of the construction period for each phase of the development, all traffic associated with the construction of the development will comply with the Construction Traffic Management Plan for that phase and use only the 'Construction Traffic Access Route' and no other local roads unless approved in writing with the Local Planning Authority in consultation with the Local Highway Authority.
- 19) No works shall commence within each phase until the details of wheel cleaning facilities for construction vehicles associated with the proposal have been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.
- 20) For the duration of the construction period associated with each phase of the development, all traffic associated with the construction of the development permitted will use the approved wheel cleaning facilities referred to condition 19.
- 21) Notwithstanding the details indicated on the submitted drawings no works above slab level shall commence on land with the application boundary to the south of the A11 unless otherwise agreed in writing until detailed drawings for the off-site highway improvement works in the form of alterations to and signalisation of the Roundhouse Way roundabout have been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.
- 22) Prior to the first occupation of any development hereby permitted on land to the south of the A11, the off-site highway improvement works (including PROW works) referred to in condition 21 shall be completed to the written satisfaction of the Local Planning Authority in consultation with the Local Highway Authority.
- 23) No more than 50 dwellings of the permitted development shall be occupied unless and until an agreed design for highway mitigation works at A11/A47 Thickthorn roundabout junction has been approved in writing by South Norfolk District Council following consultation with Highways England and Norfolk County Council as highway authorities. The design shall be substantially in the form of that shown on drawing no. G871/014 Rev D dated 4 April 2014 produced by Cannon Consulting Engineers titled Proposed Thickthorn Improvement (options 1 & 2). The design shall comply in all respects with the Design Manual for Roads and Bridges and shall include the provision of appropriate MOVA traffic signal control as modelling the Transport Assessment and agreed with Highways England.
- 24) No more than 100 dwellings of the permitted development shall be occupied unless and until the approved design in condition 23 above has been constructed, opened to traffic and certified as such by South Norfolk District Council in consultation with Highways England and Norfolk County Council as Highway Authorities.
- 25) Notwithstanding the details indicated on the submitted drawings, prior to the occupation of the 50th dwelling unless otherwise agreed in writing detailed drawings for the off-site highway improvement works in the form of widening and the provision of additional lanes in both directions on the A11 (Newmarket Road) between the Roundhouse Way roundabout and the Thickthorn roundabout as indicated on drawing G871-014 Rev D shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.
- 26) Prior to the occupation of the 100th dwelling of the development hereby permitted the off-site highway improvement works (including PROW works) referred to in condition 25 shall be



completed to the written satisfaction of the Local Planning Authority in consultation with the Local Highway Authority.

- 27) Notwithstanding the details indicated on the submitted drawings, prior to the occupation of the 200th dwelling or prior to the commencement of any agreed phase which provides access to Cantley Lane, unless otherwise agreed in writing detailed drawings for the off-site highway improvement works in the form of providing improved widened footways and new footway/cycleways along Cantley Lane as well as improving Cantley Lane to a 6m wide carriageway and tying this into the existing Cantley Lane as indicated on drawing G871/TA009 Rev B shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.
- 28) Prior to the occupation of 250 dwellings of the development hereby permitted or prior to the first occupation of any dwelling on any phase which will provide access to Cantley Lane, the off-site highway improvement works (including PROW works) referred to in condition 27 shall be completed to the written satisfaction of the Local Planning Authority in consultation with the Local Highway Authority.
- 29) Upon commencement of construction of the development hereby permitted an Interim Travel Plan shall be submitted, approved and signed off by the Local Planning Authority in consultation with the Local Highway Authority.
- 30) No part of the development hereby permitted shall be occupied prior to implementation of the Interim Travel Plan referred to in condition 29. During the first year of occupation an approved Full Travel Plan based on the Interim Travel Plan referred to in condition 29 shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. The approved Full Travel Plan shall be implemented in accordance with the timetable and targets contained therein and shall continue to be implemented as long as any part of the development is occupied subject to approved modifications agreed by the Local Planning Authority in consultation with the Local Highway Authority as part of the annual review.
- 31) Upon commencement of the development to procure, for a period of 5 years from the first occupation of the development, a bus service to provide a service of 30 minute frequency between the development and Norwich City Centre between the hours of 07:00 – 22:00 Monday to Friday 08:00 – 20:00 Saturday and 09:00 – 18:00 on Sunday. Such service is to be provided by a bus operator or operators with details of the service and operators to be approved in advance in writing by the Local Planning Authority in consultation with the Local Highway Authority.
- 32) With the exception of any site clearance works, site investigation works and tree protection works no development shall take place within each phase of the scheme until details of the following on site provisions for that phase have been submitted to and agreed in writing with the local planning authority:
  - a) bicycle storage for residents, staff and visitors as required for each phase; and
  - b) waste and recycling bin storage and collection facilities for each phase.No occupation of any associated dwelling or non-residential use within that phase shall take place until any approved bicycle storage and parking and servicing facilities serving that dwelling or non-residential use have been provided in accordance with the details as agreed and, once provided, they shall be retained as such thereafter.
- 33) With the exception of any site clearance works, site investigation works and tree protection works no development within each phase of the proposed development shall take place unless a scheme has been submitted to and agreed by the Council for the provision of fire hydrants (served by mains water supply on a minimum 90mm diameter main) for that phase. Thirteen fire hydrants shall be provided across the site. No dwelling shall be occupied within each phase until the hydrants serving the property or group of properties has been provided to the satisfaction of the Local Planning Authority.

- 34) With the exception of any site clearance works, site investigation works and tree protection works no development in relation to non-residential uses within each phase shall take place unless a scheme has been submitted to and agreed by the Council for the provision of an agreed number of fire hydrants (served by mains water supply on a minimum 150mm diameter main) and positioned in an agreed location. No development shall come into use or be occupied until the hydrants serving the property or group of properties has been provided to the satisfaction of the Local Planning Authority.
- 35) The development hereby permitted shall not be commenced until such time as a surface water drainage scheme using sustainable urban drainage systems where feasible has been submitted to, and approved in writing by, the local planning authority. The scheme shall include:
- Infiltration testing in accordance with BRE365 in the location of the proposed infiltration devices.
  - Design of the infiltration system to contain and drain the 1 in 100 year rainfall event including climate change.
  - Modelling of the contributing pipe network to demonstrate that it will not flood in the 1 in 30 year rainfall event including climate change.
  - Modelling of any flood volumes from the pipe network in the 1 in 100 year rainfall event including climate change, and details of where the water will be stored to prevent buildings flooding or offsite flows.
  - Details of who will maintain the scheme for the lifetime of the development, along with details of the proposed maintenance schedule, in accordance with The SUDS Manual.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

- 36) No development shall take place until a foul water strategy has been submitted to and approved in writing with the local planning authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.
- 37) The development hereby approved shall be designed and built to achieve a water consumption rate of no more than 80 litres/person/day. No occupation of any dwelling shall take place until an assessment which relates to that dwelling which confirms that the development has been constructed in accordance with the above specified water usage has been submitted to and agreed in writing by the local planning authority. All completed water conservation measures identified shall be installed in accordance with the details as agreed and thereafter permanently retained.
- 38) No development shall take place in pursuance of this permission until a scheme for generating a minimum of 10% of the predicted energy requirement of the development from decentralised renewable and/or low carbon sources (as defined in Annex 2: Glossary of the NPPF 2012 or any subsequent version) has been submitted to and approved in writing by the local planning authority. None of the development shall be occupied until the approved scheme has been implemented and made operational and the approved scheme shall remain operation for the lifetime of the development.
- 39) The development hereby permitted shall not commence until an investigation and risk assessment for each phase of the development has been completed in accordance with a scheme to be first agreed in writing by the Local Planning Authority, to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The written report(s) shall include:
- (i) a survey of the extent, scale and nature of contamination;

- (ii) an assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; groundwaters and surface waters; and ecological systems,
  - (iii) an appraisal of remedial options if required,
  - (iv) A detailed remediation scheme (for that phase of development) to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 40) The development of each phase of the scheme hereby permitted shall not commence (unless otherwise agreed in writing by the Local Planning Authority) until:
- An approved contamination remediation scheme has been carried out in full; and
  - A validation report that demonstrates the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority.
- 41) In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. All development within that phase shall cease and shall not recommence until:
- 1) a report has been submitted and agreed in writing by the Local Planning Authority which includes results of an investigation and risk assessment together with proposed remediation scheme to deal with the risk identified and
  - 2) the agreed remediation scheme has been carried out and a validation report demonstrating its effectiveness has been approved in writing by the Local Planning Authority.
- 42) No external lighting on non-residential uses hereby permitted shall be erected unless full details of its design, location, orientation and level of illuminance (in Lux) have first been submitted to and agreed in writing with the local planning authority. Such lighting shall be kept to the minimum necessary for the purposes of security and site safety and shall prevent upward and outward light radiation. The lighting shall thereafter be implemented in accordance with the approved details and shall be retained as such thereafter.
- 43) No construction work shall begin on each phase of the development until a scheme for protecting the proposed and existing dwellings from noise and dust from the construction work associated with that phase, has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before any part of the noise or dust-sensitive development is first occupied and shall be retained as such until all development is complete.
- 44) No construction work shall begin on each phase of the development until a further air quality report as required for that phase is submitted to and agreed in writing to the Local Planning Authority. This shall consider the air quality in relation to traffic from the proposed internal roads as well as at the Thickthorn Interchange, and identify measures to address any issues such as the position of dwellings and the use of non-opening windows with mechanical ventilation. The agreed scheme shall then be implemented as such for each phase as required.
- 45) The hours of use of any unit within Use Classes A1 to A5 and D1 hereby permitted shall first be agreed in writing with the local planning authority. The agreed hours of use shall then be implemented as such unless otherwise agreed in writing with the local planning authority.
- 46) With the exception of any site clearance works, site investigation works and tree protection works no development in relation to each non-residential phase shall take place unless the

hours of servicing and delivery to this development is first agreed in writing with the local planning authority. The agreed hours of servicing and use shall then be carried out as such in perpetuity unless otherwise agreed in writing with the local planning authority.

- 47) No generator, compressor, chilling unit or cooling fan shall be installed on the site without precise details of the equipment being submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details as approved.
- 48) With the exception of any site clearance works, site investigation works and tree protection works no development in relation to each residential phase shall take place unless a further noise report identifying appropriate noise control and mitigation measures for noise from surrounding roads to proposed dwellings for that phase has been submitted to and agreed by the Council. This shall consider the position of proposed dwellings, using non-opening windows and mechanical ventilation, the position of more noise sensitive rooms within dwellings and noise mitigation features in the landscape. No dwelling within each phase shall be occupied until the noise mitigation measures have been provided for that phase to the satisfaction of the Local Planning Authority.
- 49) A) No development within each proposed phase shall take place until a Written Scheme of Investigation for a programme of archaeological works for that phase of the development has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and
1. The programme and methodology of site investigation and recording
  2. The programme for post investigation assessment of recovered material
  3. Provision to be made for analysis of the site investigation and recording
  4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  5. Provision to be made for archive deposition of the analysis and records of the site investigation
  6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation
- B) No demolition/development shall take place within each phase other than in accordance with the Written Scheme of Investigation approved under part (A).
- C) Development within each phase shall not be occupied until the site investigation and post investigation assessment for that phase has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under part (A) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.
- 50) Notwithstanding the provisions of Schedule 2, Part 3, of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order, with or without modification), the retail uses hereby permitted shall be used for convenience retail and for no other purpose in Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification). For the avoidance of doubt uses within Classes A2 – A5 are permitted, but any subsequent change once brought into use would be limited by the above condition, unless otherwise agreed in writing with the LPA.
- 51) Notwithstanding the provisions of section 55(2)(a) of the Town and Country Planning Act 1990 or the Town and Country Planning General Permitted Development Order 2015 (or any Act or Order revoking and re-enacting that Act or Order, with or without modification), the floorspace of any non-residential unit hereby permitted shall have a maximum floorspace not exceeding 500 square metres.

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# **Report to the Secretary of State for Communities and Local Government**

**by Clive Hughes BA (Hons) MA DMS MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date 22 September 2015**

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**TOWN AND COUNTRY PLANNING ACT**

**SOUTH NORFOLK DISTRICT COUNCIL**

**APPEAL BY**

**LAND FUND LIMITED**

Inquiry opened on 16 June 2015

Land east of A47, West Roundhouse Way and North of A11; and land to the south of A11 to the east of A47 and west of Cringleford, Norfolk

File Ref: APP/L2630/A/14/2227526

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## Abbreviations used in this Report:

BCR	Benefit Cost Ratio
CCE	Canon Consulting Engineers
CD	Core Document
CIL	Community Infrastructure Levy 2010
Circular 02/2013	DfT Circular 02/2013 <i>The Strategic Road Network and the Delivery of Sustainable development</i>
Council	South Norfolk District Council
Framework	National Planning Policy Framework
HA	Highways Agency (now Highways England)
HE	Highways England
JCS	Greater Norwich Development Partnership Joint Core Strategy (adopted 2011; amendments adopted 2014)
LFL	Land Fund Limited
LP	South Norfolk Local Plan 2003
LPA	Local Planning Authority
MOVA	Microprocessor Optimised Vehicle Actuation
NATS	Norwich Area Transportation Strategy
NCC	Norfolk County Council
NDP	Cringleford Neighbourhood Development Plan 2013-2026 (adopted 2014)
NPA	Norwich Policy Area
PPG	Planning Policy Guidance
RIS	Road Investment Strategy
SNSSP DPD	South Norfolk Site Specific Policies Development Plan Document
SoCG	Statement of Common Ground
SoS	Secretary of State for Communities and Local Government
TDF	Thickthorn Developer Forum

**File Ref: APP/L2630/A/14/2227526**

**Land east of A47, West Roundhouse Way and North of A11; and land to the south of A11 to the east of A47 and west of Cringleford, 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 Land Fund Limited against the decision of South Norfolk District Council.
- The application Ref 2013/1494/O, dated 7 August 2013, was refused by notice dated 23 July 2014.
- The development proposed is outline planning application with all matters reserved (save access) for the creation of up to 650 residential dwellings (Use Class C3), up to 2,500 square metres of Use Class A1, A2, A3, A4, A5 and D1 floorspace, together with highways works, landscaping, public realm, car parking and other associated works.
- The inquiry sat for 6 days between 16 and 24 June 2015.

**Summary of Recommendation: That the appeal be allowed.**

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**Procedural Matters**

1. At the Inquiry applications for costs were made by Land Fund Limited (LFL) against South Norfolk District Council (the Council) and by the Council against LFL. These applications are the subject of separate Reports.
2. By letter dated 29 October 2014 the Secretary of State (SoS) directed that he would determine this appeal. The reason for this direction is that the appeal involves proposals for residential development of over 150 units or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
3. The numbering of the plans as submitted and as listed in paragraph 4.2 of the Statement of Common Ground (SoCG) are confusing insofar as there are revised versions of Drawings No 350/PL/003 and 004. These plans, referred to in paragraph 4.2 of the SoCG have the same numbers as the original plans. There is further confusion insofar as Drawings No 350/PL/007 and 008, provided prior to the determination of the planning application and showing illustrative original and revised Play Pitches Plans (Tabs 6 and 7 of LFL2), have the same reference numbers as the originally submitted Density Parameter Plan and illustrative Vision Framework.
4. During the Inquiry a bundle of plans was submitted adding suffixes so that the revised drawings are numbered 350/PL/003 Rev A and 004 Rev B. The Play Pitches Plans were given new reference numbers of 350/PL/SP/001 Rev 1 and 002 Rev 2 respectively. No other changes were made to these plans. The revised plans are in Doc19.
5. The planning application form does not provide the name of appellant. The schedule referred to on Page 1 of the form sets out a list of all the land owners. The appellant is just the first company listed in that schedule. This is as set out on the appeal form and it was confirmed at the Inquiry that Land Fund Limited is the applicant and appellant.
6. Paragraph 7.10 of the SoCG says that discussions were ongoing in relation to a separate SoCG concerning highways matters. No Highways SoCG was submitted

and the failure of these negotiations formed part of the Council's application for costs. The email exchange between the parties (Doc30 and 31) sets out their respective positions.

7. The reasons for refusal refer to the Council's lack of a 5-year housing land supply. In its Statement of Case, and reiterated in the SoCG, the Council's view was that it could then demonstrate a 5-year housing land supply. The SoCG, in paragraph 6.7, identifies this as a matter of disagreement between the parties. I identified this as a main issue between the parties at the opening of the Inquiry and both parties had witnesses ready to put forward evidence to support their respective positions. The Council submitted a rebuttal of the appellant's housing supply evidence at the start of the Inquiry (Doc3).
8. During the Inquiry the parties submitted a Joint Position Statement in respect of housing land supply (Doc16). This concluded that, for the purposes of this appeal, there is no 5-year housing land supply. The actual supply figure was agreed to be in the range 4.89 to 4.94 years. This Report has been written on the basis that this is the up-to-date agreed position.
9. The A11/ A47 junction is described in the evidence and policy documents as the Thickthorn Junction or the Thickthorn Interchange. For the sake of consistency I have referred to it as the Thickthorn Junction throughout this Report.

#### *Application for an adjournment*

10. The Council wrote to PINS on 5 June 2015 requesting an adjournment to enable its consideration of, and public consultation on, additional evidence submitted by the appellant. This evidence concerned proposed alternative highway improvement schemes to Thickthorn Junction and evidence concerning housing land supply. The additional highways evidence referred to a series of options for junction improvements (Options A to H) that were submitted by the appellant with the proofs of evidence. The additional housing evidence concerned the appellant's contention that the Council does not have 5-year housing land supply.
11. The appellant responded by letter dated 9 June 2015, strongly objecting to the requested adjournment. In respect of the highways evidence the additional drawings do not propose any alternative improvement proposal for the Junction. The options are based upon a drawing provided by Highways England (HE) at a meeting, attended by the Council and Norfolk County Council (NCC), in January 2015. That Drawing is in the NCC's evidence. The appellant emphasised that there is no alternative scheme being proposed as part of the appeal. With regard to the 5-year housing land supply paragraph 5.27 clearly says that this is a matter in dispute between the parties. Given the change in the Council's position between the application being refused and submitting its evidence to the Inquiry it was reasonable for evidence to be submitted on the matter.
12. At the Inquiry the Council reiterated its request based upon the highway evidence. It only received the additional options when the proofs were exchanged. The background data was not provided and so it had only one week in which to analyse it. The appellant had not indicated that this additional information was coming in its Statement of Case. The Council needed to analyse the highway data properly; it is prejudiced in considering the new data.



13. The appellant noted that the Council had abandoned the housing case for an adjournment. Policy TRA2 of the Cringleford Neighbourhood Development Plan (NDP) is at the heart of the Inquiry. The letter dated 9 June 2015 from the appellant makes it plain that the additional options are not being put forward to the inquiry. The application was refused on the basis of the submitted plans; the same plans are before the Inquiry. The planning authority is no longer responsible for the Thickthorn Junction, as set out in the Investment Strategy. HE is now at Stage 1 in a 7 stage process so will look at options to improve the Junction. The other options (Options A to H) can be ignored. The focus should be on the merits of the appeal scheme.
14. My ruling was that as the additional highways plans are for information only and do not form part of the appealed scheme, and as HE are now responsible for future improvements to the Junction, it would not be reasonable to adjourn the Inquiry to further analyse plans that are not before the SoS. Concerning housing issues, the reasons for refusal and the SoCG made it clear that this was, at the time, a live issue. It was wholly reasonable for the appellant to address it. I did not consider that the Council's case would be prejudiced by the Inquiry continuing and so the application for an adjournment was refused.

### Reasons for Refusal

15. At its meeting on 23 July 2014 the Council's Development Management Committee resolved to refuse the planning application for the following reasons:
  - 1) (a) *The development in its current form would have an adverse impact on the ability to cater for the planned growth within the Norwich Policy Area as set out in the Joint Core Strategy for Norwich, Broadland and South Norfolk (2011, amendments adopted 2014), by developing land likely to be required for the carrying out of road improvements necessary to the A47/ A11 Thickthorn Interchange to accommodate such growth. It has not been adequately demonstrated that an acceptable alternative junction improvement proposal is deliverable and achievable alongside the development proposals. The development in its current form is therefore not sustainable development in its entirety.*

(b) *Even in the absence of a five year land supply of housing in the Norwich Policy Area and despite the otherwise sustainable location of this development, the adverse impacts of approving this development as proposed would significantly and demonstrably outweigh the benefits the development would bring in terms of additional housing and community facilities and of its own contribution to addressing housing land supply shortage.*

*The development proposals are contrary to policy TRA2 of the made Cringleford Neighbourhood Development Plan (2014), saved Policy IMP8 of the adopted South Norfolk Local Plan (2003), Policies 6, 9 and 10 of the adopted Joint Core Strategy (2011, amendments adopted in 2014) and paragraphs 6, 7 and 14, in particular, of the National Planning Policy Framework (2012).*
  - 2) *The indicative site layout demonstrating the provision of playing pitches would lead to an unacceptable form of development, by virtue of the positioning of the pitches across two separate sites divided by a movement corridor, the A11 road. Insufficient information has also been provided to determine the subsequent impact on housing siting and density of any alternative provision*

*of playing pitches to address this issue. The development in its current form is therefore considered to be contrary to the requirements of Policy SCC5 of the made Cringleford Neighbourhood Development Plan (2014).*

- 3) *Insufficient information has been received to adequately assess the impact of the proposed main town centre uses on existing, committed and planned investment in centres within the catchment area to this site and the impact on town centre vitality and viability. The proposals cannot therefore be fully assessed against saved Local Plan Policy SHO2 of the adopted South Norfolk Local Plan (2003) and paragraph 26 of the National Planning Policy Framework (2012).*
16. With regard to reason for refusal (2), discussion between the parties following the Council's decision led to the submission of Drawing No 350/PL/SP\_001. This demonstrates that the playing pitches could be provided in a single location that was acceptable to the Council. This reason for refusal was therefore only pursued insofar as the pitches might need to be relocated in the event that the land on which they would be sited was needed for improvements to the Thickthorn Junction.
17. Following submission of additional information by the appellant, the Council confirmed that reason for refusal (3) was no longer being pursued and so it was not defended at the Inquiry. The agreed position in respect of reasons for refusal (2) and (3) is set out in paragraph 1.13 of the SoCG.

## **The Site and Surroundings**

18. The appeal site is in two parts that are separated by the A11 Newmarket Road dual carriageway. The sites have a combined area of about 47.6 ha and are located on the western edge of the village of Cringleford and some 5.5km to the south west of the centre of Norwich (Tab 1 of LFL4). The two parts are both of irregular shape. The northern part abuts Roundhouse Way to the east; the cited location plan is partly out of date insofar as the eastern side of this road is now being developed for housing. The land to the west is in agricultural use and is the site of the proposed residential development by Barrett Homes. The Illustrative Masterplan for this adjoining development is at Tab 4 of LFL4. Much of this part of the appeal site is used for horse grazing; there are hedges to the west and a dry pond to the north.
19. The southern part of the site is of more regular shape. It abuts the A11 to the north and the A47 to the west. There is housing and a doctors' surgery to the east. The land is in agricultural use and there are trees and mature hedgerows within and around the site. One spur of Cantley Lane, which seems to have been cut by the construction of the A47, runs east/ west across the centre of the site. Where it crosses the site it is now a footpath and links with a pedestrian footbridge over the A47. The land is generally flat although it falls away to the south towards a railway line.
20. There are no buildings on the site. It is, however, close to 2 Grade II Listed Buildings. The locations of these are indicated on the plan at Tab 7 of the SoCG. Full details of their listing are set out in the Heritage Appraisal (Doc17).
21. Cringleford is a small settlement with few facilities. In addition to the doctors' surgery there is a convenience store, nursery, business centre, builders'

merchants and various community buildings. There have not been any relevant planning applications in respect of the appeal site. In the surrounding area, however, there are a number of large developments in the pipeline. These include the Barratt Homes housing site adjoining the appeal site, for which there is a resolution to grant planning permission subject to an Agreement under s106. There are extant planning permissions in respect of housing sites at Wymondham and Hethersett and commercial uses at Norwich Research Park. The locations of these developments are shown at Tab 5 of LFL4.

## Planning Policy

22. The development plan comprises the Greater Norwich Development Partnership Joint Core Strategy (adopted 2011; amendments adopted 2014) (JCS) (CD C01); the saved policies of the South Norfolk Local Plan 2003 (LP) (CD C02); and the NDP (adopted 2014) (CD C03).
23. A list of all relevant policies is set out in the Officers' report to Committee (SoCG Tab 4). In respect of the matters at issue in this appeal it was agreed that the key policies are JCS Policies 6, 9 and 10; LP Policy IMP8; and NDP Policies SCC5 and TRA2. The SoCG confirms that there is agreement between the parties in respect of all the other cited policies.
24. The Council forms part of the Greater Norwich Development Partnership along with Broadland Council, Norwich City Council and Norfolk County Council. JCS Policy 6 *Access and Transportation* says that the transportation system will be enhanced, particularly through the implementation of the Norwich Area Transportation Strategy (NATS). The bullet points say that this policy objective will be achieved by, amongst other things, the implementation of NATS and promoting improvements to the A11 and A47. Policy 9 *Strategy for growth in the Norwich Policy Area* says that the Norwich Policy Area (NPA) is the focus for major growth and development. It identifies that housing need will be addressed by, amongst other developments, 1,200 new dwellings at Cringleford. It also refers to the transport infrastructure necessary to implement NATS, deliver growth and support the local economy which includes junction improvements on the A47 Norwich Southern Bypass.
25. JCS Policy 10 *Locations for major new or expanded communities in the NPA* says that major growth at settlements such as Cringleford, Hethersett and Wymondham will be masterplanned. It says that the new developments at these three settlements will be dependent on expanded capacity of the A11/ A47 Thickthorn Junction. In respect of Cringleford it refers to the delivery of modest growth including at least 1,200 dwellings. It says that detailed proposals will be developed through the preparation of the South Norfolk Site Specific Policies Development Plan Document (SNSSP DPD).
26. Saved LP Policy IMP8 *Safe and free flow of traffic* says that planning permission will not be granted for development that would endanger highway safety or prejudice the free flow of traffic on the highway network.
27. The NDP was adopted in February 2014 following examination and a referendum. The NDP effectively obviates the need for the SNSSP DPD in respect of Cringleford. The site is allocated in this plan for residential development. It forms part of a wider site with the remainder of the land the subject of a planning application by Barratt Homes.

28. NDP Policy SCC5 *Policies for Society, Community and Culture* says that the developers should provide for a 3.8 ha playing field to accommodate a cricket pitch, football pitches and a pavilion to include changing rooms.
29. NDP Policy TRA2 *Policies for Transport* says that developers will be expected to make an appropriate and proportionate contribution or deliver improvements to the Thickthorn Junction. Schemes need to demonstrate that they do not prejudice options for improvement under consideration by the local authorities. It says that "If a development proposal would prevent delivery of an emerging preferred or identified improvement scheme, then the proposal will need to be accompanied by appropriately detailed evidence to show that an acceptable alternative junction improvement proposal is deliverable...". The second supporting paragraph in section 7.6 says that the Thickthorn Junction improvements are critical to cater for additional traffic arising from planned housing and science park growth in Cringleford and nearby areas.

### **The Proposals**

30. It is proposed to develop the whole of both parts of the site to provide up to 650 dwellings of which 33% would be affordable units. These would comprise a mix of 85% of dwellings for social rent and 15% available as intermediate housing. The scheme would also provide up to 2,500 square metres of commercial floorspace to support the development, both in terms of local retail facilities and employment opportunities. The scheme envisages a flexible mix of A1, A2, A3, A4, A5 and D1 uses.
31. In terms of open space the scheme would provide recreational spaces and equipped play areas and an area of public open space to the east of the A47 of around 20ha. There would be a substantial area of open space to the north of Cantley Lane which would function as a village green. There would be landscaped strips to the north and south of the A11 which would be 35m and 50m deep respectively.
32. The Illustrative Masterplan shows that the northern part of the site would be accessed from various points along Roundhouse Way while the southern part would be accessed from the eastern part of Cantley Lane and from an existing roundabout on the A11. A series of pedestrian and cycle routes would be provided along Roundhouse Way to ensure permeability of the site.

### **Other Agreed Facts**

33. There are a number of other development sites in the vicinity of the appeal site, including schemes at Wymondham and Hethersett referred to in JCS Policy 10. Within the NDP boundary, and on the opposite side of Roundhouse Way, there is planning permission for 1,065 dwellings. This development is under construction and many of the dwellings are complete and occupied. To the north west of the site lies a site known as Newfound Farm. In October 2014 the Council resolved to grant planning permission to a scheme by Barratt Homes. The accompanying s106 agreement has not yet been completed.
34. Outside the NDP boundary, there is outline planning permission for new offices and laboratories for research and development activities at the Norwich Research Park to the north of the site. In Hethersett there is planning permission, granted in 2013, for a mixed use development of 1,196 dwellings and other uses

including a primary school and local services. In Wymondham outline planning permission has been granted for schemes on adjoining sites that will deliver up to 1,230 dwellings along with a range of community facilities, a residential care home and land for a new primary school.

### **Other background information**

35. In respect of the site to the north west of the appeal site, the Council's resolution to approve the scheme by Barratt Homes is the subject of judicial review on the basis that the grant of planning permission would be unlawful as that proposed development is considered by the Claimant (Land Fund Limited) to be contrary to and represents a departure from the NDP in respect of density. The Claimant argues that the approved density, 28 dwellings per hectare, is not approximate to 25 dwellings per hectare as required in NDP Policy HOU3.

### **The Case for Land Fund Limited**

#### *Neighbourhood planning and localism*

36. The SoS places great weight on public involvement in the development plan process and paragraphs 183 and 184 of the Framework give clear policy encouragement for neighbourhoods to be masters of their own future through the adoption of Neighbourhood Plans. These proposals comply with the development plan; they are in conformity with the NDP; the site has been chosen by the Cringleford Neighbourhood as the best location for the housing that JCS Policies 9 and 10 require it to provide; and the proposals are supported by the Parish Council. The Council's resistance to the proposals, based upon an aspiration to build a dual carriageway through the housing area, would necessitate the Parish Council finding additional land to make up its requirement.
37. Professor Malcolm Wagstaff, speaking on behalf of the Parish Council, explained to the Inquiry why the Council's adherence to the road proposal (known as Option 13) was unjustified [*these representations are set out below*]. The Position Statement, at paragraph 8.2, [LFL5 Appx 6 and Doc13] explains how harmful the road proposal (Option 13) would be to the intentions of the NDP. The SoS can grant planning permission in the knowledge that this release of land for housing, where there is no 5-year housing land supply, is on a site allocated in the NDP and so represents localism in action.

#### *The Development Plan*

38. The development plan comprises the JCS, the LP and the NDP. The JCS commits the authorities to the delivery of at least 36,820 new homes between 2008 and 2026. JCS Policy 9 allocates 1,200 of these to Cringleford. Policy 10 says that this is dependent on expanded capacity of the A11/ A47 Thickthorn Junction. There is no indication in the policy, or in supporting paragraph 6.20, as to how or when capacity is to be expanded.
39. JCS Policy 6 explains that the NATS will be the means by which the growth strategy can be implemented. Supporting paragraph 5.46 notes that the delivery of some of the infrastructure rests with outside agencies such as HE while paragraph 5.47 makes specific reference to the Thickthorn Junction. Appendix 7 of the JCS includes the improvement of this junction as a Priority 1 infrastructure requirement to deliver the JCS. The cost is put at £30m and this was expected to be funded through developer contributions from developments at Wymondham

- (2,200 dwellings), Hethersett (1,000 dwellings) and Cringleford (1,200 dwellings) with the improvement scheme expected to be delivered by 2016.
40. The JCS requires improvements to this Junction that expand capacity; no other details are provided. It follows that as long as this appeal is accompanied by expanded capacity at the Thickthorn Junction by 2026 there would be no conflict with the JCS. Paragraph 23 of the Framework, which post-dates the JCS, is also relevant. The traffic impacts of this scheme are not severe in Framework terms as HE did not object to the scheme as the proposed improvements to the Thickthorn Junction meet the tests of Circular 02/2013.
  41. HE has not objected to this development. The Council's continued objections are based upon the alleged unacceptability of the traffic impact of development on the Junction to which HE has responsibility. The objections are misguided.
  42. The only alleged breach of the LP relates to Policy IMP8 which refers to highway safety and the free flow of traffic on the highway network. HE, the statutory consultee with responsibility for the safety and free flow of traffic on the strategic network (including Thickthorn Junction) does not object to the proposal. The Council has completely failed to explain or justify its reliance on this policy to prevent development at the appeal site.
  43. The NDP allocates land for housing; this includes the appeal site. There is a Position Statement between the appellant and the Parish Council that accepts that there is no breach of NDP policies relating to housing, protection of the environment, the local economy, society, community and culture. The Council has resolved to grant planning permission for the Barratt Homes part of the Cringleford housing commitment at a density greater than provided for in the NDP. This is subject to a Pre-Action Protocol Letter to the Council. The Council has refused to acknowledge the non conforming nature of the Barratt scheme in terms of density.
  44. The Parish Council does not support the Option 13 scheme for the Thickthorn Junction. It regards it as harmful to the setting of the village, the amenity of existing and future residents and movement of traffic from Roundhouse Way roundabout. The Parish Council is supportive of the appeal scheme's proposals for increasing capacity at Thickthorn Junction which avoids this harm.
  45. The first reason for refusal relies upon one aspect of the NDP, namely Policy TRA2. This raises the questions as to whether there is an "emerging preferred or identified improvement scheme" and whether the appeal proposal would "prevent delivery" of any such scheme? If it does, then this raises questions as to whether there is "an acceptable alternative junction improvement proposal" which is "deliverable and achievable" and meets the requirements of "the local authorities and the Highways Agency [HA]".
  46. The Council's alleged breach of NDP Policy TRA2 is in part dependent upon the status of the Option 13 junction improvement developed by Mott Macdonald on behalf of NCC. This Option emerged in April 2013 and so was in place at the time of the NDP examination. Despite requests to the Parish Council, the land was not safeguarded. It therefore has no development plan status. It appears that it has not even had any Committee approval. It is therefore not an "identified improvement scheme" in TRA2 terms.

47. Appendix 7 of the JCS says that NCC and HA would deliver the junction improvements. That is no longer the case. In February 2014 the Council noted that the Department of Transport had indicated that would fund the junction improvements as part of its A47 strategy. The improvements to Thickthorn Junction, and other junctions, would be upgraded at no cost to the Council. This was formalised in May 2015 in the Greater Norwich Partnership Infrastructure Plan (CD G14). Its Appendix made it clear that the Thickthorn Junction improvements would be funded by HE with nil funding from the local authorities. It put the cost of the scheme at £85m. However, the Road Investment Strategy (RIS) assessed the scheme as having a 0.9 Benefit Cost Ratio (BCR), a low figure that means that Option 13 is effectively dead in terms of being funded.
48. It follows that at present HE, who is responsible for providing improvements to the Thickthorn Junction, does not have an "emerging preferred or identified improvement scheme" in NDP Policy TRA2 terms. Option 13 is unlikely to be a "preferred" scheme because the cost (£85m) is way beyond the £25-30m budget identified in the RIS list of commitments. It follows that there is no "emerging preferred" or "identified improvement scheme".
49. This is put beyond doubt by HE who said that proposals for the Thickthorn Junction are at the beginning of Stage 1 of the delivery process. This is before the public consultation stage; the HE statement says that a preferred route option will be made based on the comments made. The selection of options comes at Stage 2; there is currently no "preferred option".
50. The time period up to the end of Stage 5 is typically between 57 and 63 months. The JCS trajectory for housing delivery at Cringleford expects 50 homes to be delivered during 2015/16. To await the end of the Stage 5 process shows a lack of urgency in housing delivery. Planning permission ought to have been granted without delay. Even if it was found that there is a preferred scheme, the appellant has demonstrated that there is an alternative that is "deliverable and achievable" as required by NDP Policy TRA2. HE has approved this being in conformity with DfT Circular 02/2013.

*Whether the Authority can demonstrate a 5 year housing land supply and the implications for this on local and national planning policy.*

51. The Council admits it cannot identify a 5-year housing land supply. This is set out in the Housing Land Supply Joint Position Statement dated 18 June 2015 (Doc16). While the Council says that the position is improving, the clear concession is that this appeal should be decided on the basis that the Council does not have a 5-year housing land supply. The presumption in favour of the grant of planning permission created by paragraph 14 of the Framework applies.

*Whether the development and associated junction improvements to Thickthorn Junction would have an adverse impact on the ability to cater for planned growth within the Norwich Policy Area up to 2026.*

52. It is first necessary to identify the major growth points likely to put pressure on Thickthorn Junction. The NDP identifies the expansion of Norwich Research Park and new housing at Wymondham and Hethersett. These major transport generating activities already have planning permission. Only the appeal site either does not have permission or, in the case of the Barratt Homes scheme, a resolution to grant permission.

53. The provisions of Circular 02/2013 require the assessment of the proposed development together with all committed development. The agents for HE carried out sensitivity testing which provided sufficient confidence to allow it to be content that the development and the proposed mitigation was acceptable under the Circular.
54. There remains a dispute as to whether the appellant's scheme, drawn up by CCE would generate sufficient capacity to facilitate any residual growth up to 2026. The appellant's evidence to the Inquiry showed that it does; the NCC's evidence turned out to be flawed. However, this is not of practical consequence as there is no longer alleged to be any breach of the first part of NDP Policy TRA2 which refers to "emerging preferred" or "identified" options so it is no longer necessary to demonstrate capacity to 2026. Even if there is a shortfall in capacity at 2026 the HE RIS budget of £25-30m would be used to increase capacity. The Council accepted that HE will deliver sufficient capacity at Thickthorn Junction to 2026 and beyond.
55. The appellant's evidence demonstrates that, if it were necessary, there would be adequate capacity at the Junction at 2026. This is, however, not necessary as there is no longer any alleged breach of the first part of NDP Policy TRA2; HE does not object to traffic from this development (together with all committed developments); and if there were any shortfall in capacity at 2026 the HE works will identify the same and identify and develop through proper consultation the appropriate means to address this by 2026.

*Whether the Thickthorn Junction improvements meet the requirements of the Development Plan (and particularly NDP Policy TRA2)*

56. The relevant JCS requirements of the development plan in relation to Thickthorn Junction are set out in Policies 6, 9 and 10 and in Appendix 7. Policy 6 and its supporting paragraphs 5.45 and 5.47 refer to the implementation of NATS and the promotion of improvements to the A11 and A47. The implementation of NATS is fundamental to the delivery of the transport strategy; the strategic improvements necessary to deliver growth and facilitate modal shift include junction improvements at Thickthorn. Policy 9 says that the transport infrastructure required to implement NATS includes junction improvements on the A47 Norwich Southern Bypass. The Implementation Plan (at page 61 of the JCS) identifies junction capacity improvements at this junction.
57. Policy 10, which relates to locations for major new or expanded communities, under the heading Cringleford says that this location is dependent on expanded capacity of the A11/ A47 Thickthorn Junction. The policy says that detailed proposals will be developed through the preparation of the SNSSP DPD and that to implement the JCS significant highway improvements are required at Thickthorn. Appendix 7 refers to the Thickthorn Junction improvements with an estimated delivery date of 2016 and funding from developer contributions. The junction improvements are required for growth in Wymondham, Hethersett and Cringleford Growth Locations.
58. Analysis of these policies demonstrates that improvements consisting of expanded capacity are required at Thickthorn Junction before 2026; the means for increasing capacity are not specified; there is no express reference to land acquisition to deliver improvements; and the reference to NCC as promoter is no longer appropriate as, under the RIS, the promoter is HE.



59. The developer contributions should generate £30m required to fund the improvements. So far, NCC has secured not one penny from all the developers whose schemes have been granted planning permission. This was admitted in cross-examination. Without RIS and the funding through it, there is no prospect of the necessary improvement of Thickthorn Junction. It is a little ironic that the development that delivers improvements to the Junction's performance should be refused planning permission due to alleged breaches of Policies 6, 9 and 10.
60. There are no requirements for the Thickthorn Junction in the LP. The NDP has taken over the role that JCS Policy 10 expected to be undertaken by the SNSSP DPD. This is important as there are no detailed proposals for any junction improvements in the NDP. NCC requested that land be reserved for Option 13 but the Parish Council refused this for the reasons set out above. Instead the issue of capacity at Thickthorn Junction was addressed through NDP Policy TRA2.
61. The interpretation of this policy is at the heart of this appeal. The preliminary issue is whether the appeal proposal "would prevent delivery of an emerging preferred or identified improvement scheme". If the answer to that is "yes", then it becomes necessary to show that "an acceptable alternative junction improvement proposal is deliverable and achievable that meets the requirements of the local authorities and HE".
62. The Council acknowledged that there is no "identified" improvement scheme. The Council's case is that there is an "emerging preferred" scheme, namely Option 13. The Council's witness argued that all that needed to be shown was that there was an "emerging" improvement scheme, that is to say one which was not even "preferred". Such an interpretation could only be appropriate if there were a comma separating "emerging" from "preferred". There is not.
63. The witness's argument that the policy should be interpreted in that way because that is what was intended is nonsense; policies must be interpreted as they are written. The policy was scrutinised by the Examiner, a barrister. The usual meaning is therefore that only an "emerging preferred" improvement needs to be considered. On a practical basis, Mott MacDonald considered 21 options in the Traffic Assessment which would all have to be considered as "emerging" options, yet the Council has run this appeal on the basis that Option 13 has in some way been selected and is in their minds an "emerging preferred" option. The comma argument should be rejected; the proper test is "emerging preferred".
64. It was accepted by the Council that TRA2 must be interpreted in the light of the arrangements for improvements to Thickthorn Junction as they are in 2015. That is to say HE is the final arbiter of the design of any necessary improvements. Any suggestion by NCC will be something for HE to consider; it will not be an "emerging preferred" option.
65. HE's note of 20 May 2015 (LFL6 Appx 2) makes the Council's argument that Option 13 is an "emerging preferred" option untenable as the proposals for Thickthorn Junction improvements are at Stage 1 of the delivery process. This stage is defined as options identification. Options selection takes place at Stage 2; there is no preferred option yet. The Note says that previous development work and options are likely to be considered as potential options. This is self evidently not a "preferred option". Public consultation still needs to be carried out. The Note further says that whether or not land outside the current highway boundary will be required will become clear when the preferred route option is

known, sometime in late 2016/ early 2017. Option 13 cannot be regarded as a "preferred option".

66. The Council's planning witness conceded that there is no "identified option" and neither is there an "emerging preferred" option. All the expert planning evidence in this case accepts that there is no breach of the first part of NDP Policy TRA2. This means that there is no need to address the second part of TRA2 because there is no "identified" or "emerging preferred" scheme.
67. The appellant is satisfied that the CCE improvements satisfy all JCS traffic needs to 2026. If this is not the case then HE will provide any necessary top-up. The fall back position is important because HE approval confirms that the interim position is safe and capacity at Thickthorn Junction to accommodate all JCS traffic to 2026 is now underwritten by HE. This is just as well given the Council's funding position.
68. The Councils' TRA2 case is that the CCE scheme and the appeal proposal conflict with Option 13. However, the improvements that TRA2 is designed to deliver will come about in any event. There is no evidence to show that HE would not be able to deliver improvements if the appeal scheme were allowed. HE's relaxed attitude to the appeal scheme reflects their assessment of Option 13 based upon AECOM's assessment (CD G15) of it on their behalf. Compared with other schemes, the RIS expected cost is either higher or similar to the Stage 2 assessment. In respect of Thickthorn Junction, however, there is a complete mismatch where the RIS expected cost is less than half the AECOM cost assessment (£25-50m compared to £67-103m) (CD G15/ L01). The estimated cost at Thickthorn Junction in the RIS schedule and the funds likely to be made available show that Option 13 is a non-starter.
69. There is no breach of LP Policy IMP8 as the Council accepted in cross-examination. Overall, on this issue the CCE improvements do not conflict with NDP Policy TRA2. There is no "identified" or "emerging preferred" scheme in TRA2 terms; the CCE scheme will accommodate growth to 2026 or the HE will make up any difference. It passed the Circular 02/2013 test and HE will deliver any necessary capacity by 2026. Option 13 represents poor value for money. It lies well outside the likely available funds and is in conflict with the development plan in that it prevents the NDP housing allocation at the appeal site.

*Whether the use of land to provide the required play pitches would conflict with the ability to deliver upgrades to the Thickthorn Junction.*

70. In answer to a question from the Inspector, the Council confirmed that this issue centred entirely upon the Option 13's need to take up land under the footprint of the new road which would include the pitches. Because Option 13 has no development plan status and is not an "emerging preferred" or "identified" option there is no justification for this reason for refusal.

*The effect of the proposed development on the setting of The Round House and North House, Grade II listed buildings.*

71. When the NDP made its housing allocation it did so in the knowledge of the presence of both Listed buildings and their settings. The Committee report acknowledges that there would be no adverse impact on the significance of either listed building by development within their setting. The Turley Report (June

2015) (Doc17) confirms this position. The listed buildings do not represent a bar to development on the appeal site.

*Whether the benefits of the proposed development would outweigh any identified harm.*

72. The proposed development would deliver a range of economic, social and environmental benefits. This is acknowledged in the SoCG. These benefits include the provision of housing to meet an identified need. This would include affordable housing which, if the scheme provides 650 dwellings, would amount to 214 dwellings (33%). The dwellings would provide for a range of types and sizes. The future residents would lead to increased expenditure in the area to the benefit of existing and future businesses. The facilities on the site would reduce the need for residents to travel; the public open space would be available for existing and new residents. The key habitats would be retained, including hedges and trees, with new habitats provided including a corridor of rough grassland, woodland and scrub adjacent to the A47. This would be supplemented by appropriate landscaping. The CIL payments would contribute towards the delivery of new infrastructure.
73. These benefits are enhanced by the absence of a 5-year housing land supply. In terms of harm, there is no breach of any JCS policy. There is no breach of LP Policy IMP8 as HE acknowledges that traffic from the development can safely be accommodated in the road network. There is no breach of NDP Policy TRA2 or any other NDP policy. The Parish Council supports this view.
74. If planning permission is granted and the scheme built, then Option 13 could not be built. However, there has never been any suggestion by the Council or NCC that a body with compulsory purchase powers was prepared to acquire the land. No offer to buy the land has been made. Option 13 is not part of the development plan. There is no evidence to show that it represents official NCC policy and it has not been the subject of public consultation. NCC has not tested other junction improvement schemes that are not land hungry.

### *Conclusions*

75. The proposals accord with the development plan and permission ought to be granted without delay. The need to grant permission is enhanced by the lack of a 5-year housing land supply. The scheme would provide badly needed housing in a location that local people have chosen through the NDP process. As such it represents localism in action.

### **Oral Representations made at the Inquiry in support of the Appellant**

76. Professor Malcolm Wagstaff, Chairman of the Working Party for the NDP, made four points to the Inquiry to clarify the Parish Council's position with particular reference to the highway scheme known as Option 13 (LFL5 Appx6, Doc13).
- The Parish Council were not aware that they had to put land aside for highways improvements. The Mott MacDonald report of June 2013 was too late for inclusion in the NDP;
  - The status of the Mott MacDonald reports of June 2013 was unclear as they had not been adopted by any party and the funding was not clear;

- The Parish Council did not know how much land would be required or where that land would be as Option 13 was not the only option; and
- Any land take south of Roundhouse roundabout would affect the ability to deliver of the 1,200 homes without looking for more land elsewhere.

### **The Case for South Norfolk District Council**

*Whether the Authority can demonstrate a 5 year housing land supply and the implications for this on local and national planning policy.*

77. The position on housing land supply was agreed during the Inquiry and a Position Statement produced (Doc16). It shows a 4.89 – 4.94 year supply. It was agreed that a 5% buffer should be applied and that the “Liverpool” approach to the shortfall should be used. The lack of a 5-year housing land supply at the time of the appeal is the same position as when the application was determined. The Council’s position is improving and, based upon the Council’s predicted supply, there may be a 5-year supply by the time the April 2015 figures are published.

78. The Council took account of the Framework when determining the planning application, and in particular paragraphs 14, 47 and 49. The presumption in favour of sustainable development in paragraph 14 unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole formed the basis for the Council’s planning balance when it refused permission. The delivery of 650 dwellings on the appeal site is much less significant than the delivery of wider growth, including housing, within the JCS. The fact that the relevant policies for housing should not be considered up to date does not affect the rest of the development plan or the s38(6) test. This underlines the primacy afforded to the development plan.

*Whether the development and associated junction improvements to Thickthorn Junction would have an adverse impact on the ability to cater for planned growth within the Norwich Policy Area up to 2026.*

79. The Council’s concern is that the development of that part of the site that lies to the south of the A11 would have an adverse impact on planned growth as that land is likely to be required for road improvements for the Thickthorn Junction. The Council’s evidence is that a major scheme, with at least one new flyover or underpass would be necessary. This would require significant land take. If this scheme goes ahead it would have an adverse impact on the ability to develop such a scheme and so would impact on JCS growth. All the major improvement options involve land from part of the appeal site. This is likely to be land to the south of the A11 as illustrated by Option 13.

80. The appellant’s evidence seeks to demonstrate that their alternative Junction proposal (CCE Option 2) would cater for planned growth in the NPA to 2026. There remain shortcomings in this analysis. The Junction would operate at over-capacity with insufficient stacking space for vehicles at 3 of the 5 stop lines on the circulating carriageway. This would affect its safety and the free flow of traffic. The Council’s observations show that it is now at over capacity with limited stacking space. This is a major Junction on the strategic road network and its importance is reflected in the development plan.

81. The appellant's approach does not instil confidence as there was no detailed appreciation of the Thickthorn Junction issue in the original Transport Assessment (CD A16). This is despite the appellant having been part of the Thickthorn Developer Forum (TDF) since 2010 and was aware of the improvement options evaluated by Mott Macdonald between 2011 and 2013. These concluded that large scale improvements would be required to enable the junction to operate satisfactorily with the full JCS development. The appellant's witness was present when these were discussed. The Option 13 scheme was clear from June 2013.
82. Each of the shortcomings of the appellant's evidence results in better LINSIG modelling results. The cumulative effect is overestimated capacity and stacking issues on the internal circulating lanes. The Council's evidence reflects a more balanced approach. This provides high and low sensitivity testing to reflect the fact that forecasts vary and to account for the higher saturation flows.
83. The review by Mott Macdonald of an at-grade scheme, introducing additional lanes and a widened circulatory carriageway, identified clear shortcomings. In particular the LINSIG model used by CCE was not the same as for the North Hethersett scheme and the changes increase capacity; the CCE model overestimated the capacity of links at the signal stop lines and on give way links; the CCE model overestimates the efficiency by which the overall junction could operate by not reflecting the MOVA operation; and the CCE model overestimated capacity by assuming that approach lanes were longer than they are, both in the base model and the improvement scheme. The shortcomings of the appellant's scheme would lead to unacceptable levels of saturation and excess queues.
84. The parties agreed that the NATS ND model should be used as an appropriate tool for forecasting and that the appropriate review period is the end of the JCS, 2026. The appellant's forecast for 2026 has been interpolated from a "straight line" growth between the 2012 survey and the 2032 growth forecast but this is not representative of JCS growth which is slower in the period 2026 to 2032. The fact that the CCE forecasts for 2026 were higher than the NATS model for 2032 is only true for AM peak hour period. The combined AM and PM peak figures are greater under the NATS model.
85. The Council's approach to forecasts should be preferred. Other specific shortcomings lead cumulatively to an underestimation of capacity when assessing the proposed improvement. These include the overestimation of saturation flows; the overestimation of the capacities of links at the junctions; and the use of multi-stream MOVA control is over-optimistic and overestimates capacity. In recognition of the fact that the issue of multi-stream operation by MOVA is contentious, the Council has included it in its modelling but the results do not demonstrate the proposed improvement would be acceptable.
86. The Mott Macdonald model resulted in a degree of saturation in excess of 90% on the A11 west entry and on the circulating lanes of this entry. There would be excess queues, forecast to exceed the available stacking space, on three of the links. The appellant's response, to use MOVA to increase vehicle throughput, should not be accepted. The excessive circulating queues are likely to have an adverse effect on the operation of the junction and present unacceptable risks to safe operation; the Mean Maximum Queues (provided by LINSIG forecasting) would be exceeded at certain times; and MOVA control provides little improvement under congested traffic conditions.

87. The Council carried out sensitivity testing to assess the capacity of Thickthorn Junction at 2026. The central forecast 2032 AM peak flow was reduced by 5%. Multi-stream MOVA operation was used. The High Growth traffic forecasts for 2032 were combined with high saturation flows for the High Sensitivity Test; the Low Sensitivity Test used Low Growth forecasts and low saturation flows. In each scenario unacceptable degrees of saturation at both entries and on the circulating carriageway, and unacceptable excess queues at more than one location on the circulating carriageway resulted.
88. A review of the appellant's proposed improvement undertaken for the Inquiry does not take matters further. Multi-stream MOVA operation suffers from the same criticism as set out above but in any case has been included in the Council's modelling. The observed saturation flows are not supported by data; the need for larger vehicle headways on curved roads than on straight roads is ignored. The evidence on queue lengths incorrectly defines stopline to stopline. This overestimates possible queue lengths. Even where available stacking space is exceeded by a small amount on the model, this is likely to lead to unacceptable impacts.
89. During the course of the Inquiry the Council made corrections to its evidence and to the modelling undertaken by Mott Macdonald. The upshot was that the degrees of saturation for each of the Mott Macdonald model, 2026 sensitivity test, and High and Low Sensitivity tests are acceptable. However, excess queues which are forecast to exceed the available stacking space on internal circulatory lanes remain. The Council's concerns remain sound. The appellant has failed to show that an acceptable alternative junction proposal is deliverable and achievable; it would not cater for planned growth in the NPA to 2026.

*Whether the Thickthorn Junction improvements meet the requirements of the Development Plan (and particularly NDP Policy TRA2)*

90. The interpretation of policy statements is to be carried out objectively; ultimately it is a matter for the courts. Planning authorities cannot make the development plan mean whatever they would like it to mean (*Tesco Stores Ltd v Dundee [2012] 2 P&CR*). It is agreed that the development plan policies in dispute are JCS Policies 6, 9 and 10; saved LP Policy IMP8; and NDP Policy TRA2.
91. The JCS establishes strategic objectives to be realised at a site allocations, or as in this case, NDP policy stage. Thickthorn Junction is a major junction on the strategic network providing a main route into and out of Norwich. Policies in the JCS demonstrate that significant highway improvements and expanded capacity at the Junction are required to deliver the growth identified in the JCS.
92. Policy 6 seeks to enhance the transport system to develop Norwich as a Regional Transport Node. This will be achieved by implementing NATS and by promoting improvements to the A11 and A47. The supporting text refers to required junction improvements at Thickthorn. Policy 9 identifies that the main focus for major growth and development in the JCS is the NPA. Transport infrastructure is required to implement NATS, deliver growth and support the local economy. This will include junction improvements on the A47; Thickthorn Junction is identified as a location for capacity improvements. Policy 10 establishes the locations for new or expanded communities. It identifies that major growth at Wymondham, Hethersett and Cringleford is dependent upon expanded capacity at the A11/ A47 Thickthorn Junction.

93. Transport improvements are a key requirement of the JCS. They are not delimited in time so it can fairly be suggested that they apply to the plan period to 2026. The acceptability of the transport improvements must be assessed against the whole plan period to 2026. Insofar as the junction improvements proposed by the appellant do not cater for growth to 2026, they are liable to conflict with the cited JCS policies.
94. The fact that none of the policies safeguard land for a specified Thickthorn Junction improvement is of little consequence. When the relevant JCS policies were adopted in 2011 the NATS based modelling based on the 2012 surveys had not taken place. The policies establish strategic objectives.
95. The fact that the County Council did not object to the major developments at Wymondham and Hethersett, without seeking contributions, was explained by the Council. NCC was seeking to promote a Government funded scheme. The appeal site differs as it includes land likely to be required for the improvements. While the Council acknowledged that HE will provide for the junction improvement to 2026, this is in the context that HE would try to find a solution despite the stated position of Mott MacDonald and the Council that a major scheme would be required that would inevitably require significant land take from the appeal site.
96. HE's position is entirely illogical. HE did not object to the planning application. That was on the basis of Circular 02/2013 and that the overall forecast demand at the time of opening the development could be accommodated within the existing infrastructure. HE has also stated that the appellant's improvements will not cater for planned growth to 2026. The only emerging scheme considered in any detail is Option 13, which requires land to be taken from the appeal site. HE appears to consider itself to be bound by the Circular and has not addressed the strategic objectives and requirements of the development plan.
97. The appellant's position, that their improvements will cater for growth to 2026 and insofar as it does not, HE will deal with any shortfall, does not provide a complete or satisfactory answer for Thickthorn Junction. The Council acknowledged that there would be no breach of JCS policies provided that an acceptable alternative junction improvement could be achieved and delivered. The appellant has placed too much reliance on HE's position. HE has said that it is "not certain" that land outside the current highway boundary will be required or its location. The Council's technical evidence is that a major scheme requiring land take is inevitable and the reason for refusal says that it is likely to be required. There is conflict with the strategic objectives to provide expanded capacity at Thickthorn Junction to cater for planned NPA growth to 2026.
98. Saved LP Policy IMP8 says that permission will not be granted for development that would endanger highway safety or prejudice the free flow of traffic on the highway network. The LP covered the period to 2006 but that does not affect its application now. It is a saved policy so forms part of the development plan. The fact that it was formulated before the Framework means it should be given due weight according to its degree of conformity with the Framework. It is only partially inconsistent with the Framework so it remains part of the development plan even if it carries slightly less than full weight.
99. The Council's evidence that the Thickthorn Junction would be at over capacity if the scheme were permitted, affecting the safe and free flow of traffic. The

junction, operating at over capacity, would result in queues on the circulating links causing a significant adverse effect on the operation of the junction. The applicability of the policy is not time limited; it applies to 2016. The appellant is wrong to consider that HE will meet any residual concerns. It is too simple to say that because HE has not objected there can be no breach of this policy.

100. The Cringleford NDP was one of the first to be made. It forms part of the development plan, as set out in paragraph 198 of the Framework. Several points can be made about NDP Policy TRA2. The wording was proposed by NCC in conjunction with the Council and HA; it "originated" from the Council's witness to this Inquiry. The wording was not changed by the Examiner. He concluded the policy was necessary to ensure conformity with JCS policy in respect of the Thickthorn Junction and the Parish Council did not object to its inclusion in the NDP.
101. The necessity to ensure conformity with the JCS is apposite here as made clear in paragraph 184 of the Framework where reference is made to strategic needs and priorities of the wider local area. The scope and importance of the policy is reflected in the supporting text for the policy in the NDP which describes the Thickthorn Junction improvements as being critical to cater for additional traffic arising from nearby developments.
102. This Inquiry is in a unique position with regard to interpreting the policy as the NCC's witness was involved in its production. It was not amended by the Examiner. While it is for the SoS to interpret the policy, NCC's evidence must carry some weight. The relevant parts of NDP Policy TRA2 can be broken down and are considered in turn.
103. *"As applications come forward they will need to demonstrate that they do not prejudice the delivery of options for improvement under consideration by the local authorities (as published on the GNDP website)".* The appellant accepted that by the time the application was determined smaller scale improvements had been considered by the HA and NCC had commissioned assessments of the measures identified in that work. Mott MacDonald then produced two reports, The Concept Scheme Options Traffic Assessment and The Concept Scheme Options Engineering Assessment (SDNC2 Appx 7 & 8). These reports considered previously assessed options as well as additional options, including Option 13. The second report concluded that Free-flow alternative B was the "preferred option". These reports were published and discussed at the TDF. The Council considers that these were "options for improvement" in accordance with NDP Policy TRA2. The appellant had to show that they would not prejudice delivery. NCC was considering options with a view to securing Government funding so there was no need for any option to be ratified by a Committee resolution.
104. *"Whether the proposals would prevent delivery of an emerging preferred or identified improvement scheme".* At the date of determination NCC clearly had a preferred improvement scheme; this led to the objection to this proposal. After that Government funding was secured for the Thickthorn Junction improvement scheme. It was included in the Autumn Statement and referred to in the RIS. While it will be Government funded, NCC will remain as a stakeholder and have a say in the improvement which comes forward.
105. The appellant has misinterpreted the RIS Investment Plan list of commitments. It provides an "expected cost category". This is not a budget and does not limit



final costs. The costs are subject to change as schemes develop; it is the overall budget for all schemes that will not be exceeded. The position is further supported by the Corridor Feasibility Study (Stage 3) (March 2015) (SNDC2 Appx 18) which is more recent than the RIS where the estimated cost range of £67-103m is provided.

106. In that report the Thickthorn Junction improvement is analysed as an "emerging scheme". The economic, environmental and social costs are considered giving a BCR of 0.9. No other emerging schemes are considered. It is the most recent HE report on the subject. The Council considers Option 13 to be an "emerging scheme" for the purposes of NDP Policy TRA2. The appeal scheme would clearly prevent its delivery.
107. Concerning the interpretation of that policy, it is fair to say that a comma between "emerging" and "preferred" might make it clearer. There does not have to be a comma, however, for the phrase to have three components; an emerging scheme, a preferred scheme and an identified scheme. This is an entirely sensible interpretation of the policy. The concept of an "emerging preferred" scheme is a slightly odd one. If it is preferred it must have emerged anyway; the use of the word "emerging" would be otiose.
108. Consideration should be given to what the policy is seeking to achieve. Where there are options for improvement which are under consideration, a developer must demonstrate that their scheme will not impinge on the options. Option 13, as analysed in the Corridor Feasibility Study (SNDC2 Appx 18), is clearly an emerging scheme under serious consideration. HE has recently stated that it does not have a preferred option but it has not been suggested that this option is off the table.
109. The BCR of 0.9 does not mean the scheme cannot be under serious consideration. A different scheme, with a BCR of -2.9, shows that where the transport benefits outweigh the other disbenefits a scheme can still be supported.
110. The fact that there is a further selection process to go through and that HE are at Stage 1 does not mean that Option 13 should be precluded from being an emerging scheme for the purposes of NDP Policy TRA2. Only the area of the appeal site to the south of the A11 would be affected by this major improvement scheme. The rest of the site could be brought forward first. The appellant's assertion that development would be held up for 5-6 years is unduly pessimistic. The Council sought to agree a condition with the appellant (LFL6 Appx 9 – 23 January 2015 meeting) which would delay the commencement of construction of the southern part of the site to allow time for HE to confirm whether or not the land was required. The parties could not agree a time period.
111. NCC has a preferred option for the purposes of NDP Policy TRA2. HE now has responsibility but there is an emerging option under consideration.
112. *"Is the proposal supported by appropriately detailed evidence to show that an acceptable alternative junction improvement proposal is deliverable and achievable that meets the requirements of the local authorities and the HA".* The Council's evidence is that the proposed alternative improvement scheme would give rise to excessive queues on the circulating links up to 2026. The appellant has not put forward an acceptable, deliverable and achievable proposal which

meets the requirements of the Council and NCC. The development is in breach of NDP Policy TRA2 and the development plan as a whole.

*Whether the use of land to provide the required play pitches would conflict with the ability to deliver upgrades to the Thickthorn Junction.*

113. The revised location for the playing pitches, south of the A11, conflicts with the ability to deliver the major improvement to Thickthorn Junction which the Council's technical evidence contends is both likely and inevitable.

*The effect of the proposed development on the setting of The Round House and North House, Grade II listed buildings.*

114. The Council's Listed Buildings and Conservation Officer did not identify any harmful impacts on the setting of listed buildings in the area.

### **Written Representations**

115. **Mrs A Hennington**, a resident of Cringleford, objected on the grounds that this proposal, in combination with the scheme by Barratt Homes, would conflict with the NDP in density terms. The current infrastructure cannot support the new housing without further investment. The road network cannot support more traffic in Cantley Lane. The A11/ A47 junction is already struggling to cope with traffic volumes. The applications by LFL and Barratt Homes should be considered together. The NDP allows 1,200 dwellings; these two schemes are for a total of 1,450 dwellings. This goes against the principles of local governance.

116. **Mrs B Hall**, a resident of Cringleford, also said that the two schemes should be considered together as if approved the total number of dwellings would greatly exceed 1,200. Barratt Homes and LFL should work together. The wishes of the local people should be respected or neighbourhood planning is largely pointless. In addition, traffic problems have been underestimated and the level of congestion has not been considered. The current infrastructure cannot support this level of development.

117. The **Cringleford Parish Council** also made written representations and enclosed copies of previous representations on the planning application. At the Inquiry the Parish Council submitted a written note (Doc18) confirming that the Parish Council's agreed Position Statement, set out in Appendix 6 of Mathew Jones' Proof of Evidence (LFL5 Appx 6), supersedes its previous letters to the Council and to PINS.

118. This Position Statement says that the Parish Council would like to see the density of the Barratt Homes development reduced to 25 dwellings per hectare so that the overall housing provision accords with NDP Policy HOU1. The appeal proposals accord with that Policy. When the NDP was being prepared the Parish Council was not aware of the options under consideration by consultants for NCC for improvements to Thickthorn Junction. While the Parish Council supports an improvement to this junction, the Option 13 scheme is not supported. This would be detrimental to the existing settlement, bringing a dual carriageway to within 50m of the village boundary. This would be harmful to the setting of the village and to residents' amenity. Option 13 would be contrary to the NDP whose Proposals Map shows a road from the roundabout to the new housing. The Parish Council, while not wishing to suggest an improvement scheme for the Junction, is

mind to support proposals that accommodate the necessary changes within the existing framework of the Thickthorn roundabout.

119. In respect of the original planning application, there were **58 letters of objection** to the development **from third parties**. The objections covered a wide range of issues, including:

- Failure to conform with NDP
- Cumulative impact of development on environment not considered
- Density, layout and style of housing not in keeping with local character
- Density too high
- Insufficient protection to A11 green corridor
- Impact on highway safety
- Impact on public transport availability
- Lack of detail on improvements to A11 crossing
- Secondary school and doctors' surgery provision
- Impact on setting of listed building
- Commercial development out of character and no demand for facilities
- Impact on drainage
- Houses too close to A47/ A11 roundabout
- Loss and change of character to Norwich gateway
- Inadequate playing pitch provision
- Police have raised concerns

### Conditions and Obligation

120. A list of suggested conditions was submitted by the Council at the start of the Inquiry (Doc2). This list, with Track Changes subsequently added by the appellant, was the subject of a round table discussion during the Inquiry. Also discussed was a list of highways conditions, again provided by the Council and with Track Changes added by the appellant (Doc23). Following the discussion, some matters remained unresolved and, following further post-Inquiry discussions between the parties a revised, agreed, list was submitted in accordance with an agreed timetable two days after the close of the Inquiry (PID2). At this point only one condition remained in dispute; two alternative versions of this condition were submitted. The condition in dispute concerns the safeguarding of land within the appeal site for future highway works to the Thickthorn Junction.

121. During the Inquiry the appellant submitted a draft s106 Obligation (Doc12). A completed version was submitted in accordance with an agreed timetable following the close of the Inquiry (PID1). The Obligation makes provisions in respect of play area, recreational space and amenity areas; affordable housing;

sport/ formal recreational provision; education; the travel plan; and green infrastructure mitigation contribution. It also sets out the terms and conditions for land transfers to NCC, the Council or the Cringleford Parish Council.

### Inspector's Conclusions

122. The following considerations are based upon the evidence given at the Inquiry, the written submissions and my inspections of the site and surrounding area. In this section the numbers in square brackets [] refer to paragraphs in the preceding sections of the report.

### Planning Policy [22-29, 38-50, 56-69, 76, 90-94, 98, 100-112]

123. The parties agree that the development plan comprises the Greater Norwich Development Partnership Joint Core Strategy (adopted 2011; amendments adopted 2014) (JCS); the saved policies of the South Norfolk Local Plan 2003 (LP); and the Cringleford Neighbourhood Development Plan (adopted 2014)(NDP). It was further agreed that in respect of the matters at issue in this appeal the key policies are JCS Policies 6, 9 and 10; LP Policy IMP8; and NP Policies SCC5 and TRA2. The SoCG confirms that there is agreement between the parties in respect of all the other cited policies.
124. The Council forms part of the Greater Norwich Development Partnership along with Broadland Council, Norwich City Council and Norfolk County Council. JCS Policies 6, 9 and 10 all refer to the need for junction improvements at the A11/ A47 junction (Thickthorn Junction). Policies 9 and 10 both say that the housing need will be addressed, in part, by 1,200 new dwellings at Cringleford and that this development will be dependant upon expanded capacity at Thickthorn Junction. Policy 10 also says, however, that the expansion at Wymondham and Hethersett will also be dependant on these junction improvements yet permission has been granted for these schemes in advance of any approved junction improvements. Appendix 7 of the JCS is also relevant in this regard.
125. Saved LP Policy IMP8 *Safe and free flow of traffic* says that planning permission will not be granted for development that would endanger highway safety or prejudice the free flow of traffic on the highway network.
126. According to the JCS detailed proposals for the new development identified in that Strategy will be developed through the preparation of the SNSSP DPD. As far as Cringleford is concerned, however, that document has been superseded by the preparation and subsequent recent adoption of the NDP. This allocates the appeal site, together with adjoining land proposed for development by Barratt Homes, for residential development.
127. NDP Policy SCC5 *Policies for Society, Community and Culture* says that the developers should provide for a 3.8 ha playing field to accommodate a cricket pitch, football pitches and a pavilion to include changing rooms.
128. NDP Policy TRA2 *Policies for Transport* says that developers will be expected to make an appropriate and proportionate contribution or deliver improvements to the Thickthorn junction. The second supporting paragraph in section 7.6 says that the Thickthorn Junction improvements are critical to cater for additional traffic arising from planned housing and science park growth in Cringleford and nearby areas.

129. There is no dispute between the parties concerning the JCS policies. There is disagreement concerning whether the proposals comply with the LP. The principal area of dispute between the parties, however, relates to the interpretation of NDP Policy TRA2.

130. I have also had regard to the Framework, and in particular to the paragraphs that relate to housing land supply, neighbourhood plans and highways. Also relevant are the Planning Practice Guidance and Circular 02/2013. I have had regard to the general duty as respects listed buildings in exercise of planning functions, and in particular s66 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* which says that decision makers should have special regard to the desirability of preserving a listed building or its setting.

### **Main Issues**

131. The main issues are:

- Whether the Authority can demonstrate a 5 year housing land supply and the implications for this on local and national planning policy;
- Whether the Thickthorn Junction improvements meet the requirements of the Development Plan (and particularly NDP Policy TRA2);
- Whether the development and associated junction improvements to Thickthorn Junction would have an adverse impact on the ability to cater for planned growth within the Norwich Policy Area up to 2026;
- Whether the use of land to provide the required play pitches would conflict with the ability to deliver upgrades to the Thickthorn Junction;
- The effect of the proposed development on the setting of The Round House and North House, Grade II listed buildings; and
- Whether the benefits of the proposed development would outweigh any identified harm.

### ***Whether the Authority can demonstrate a 5 year housing land supply and the implications for this on local and national planning policy [7, 8, 51, 77, 78]***

132. It is common ground that the Council does not have a 5-year housing land supply. The supply is in the order of 4.9 years allowing for a 5% buffer. The provisions of paragraph 49 of the Framework therefore are engaged. These say that relevant policies for the supply of housing should not be considered up to date if the Authority cannot demonstrate a five-year supply of deliverable sites. Paragraph 14, which sets out the presumption in favour of sustainable development, is also engaged. The first bullet point of the second bullet point under the decision taking heading, says that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Due to the relevant policies for the supply of housing being out of date, that is an appropriate test in this appeal.

### ***Whether the Thickthorn Junction improvements meet the requirements of the Development Plan (and particularly NDP Policy TRA2) [56-59, 90-112]***

133. The development plan does not set out any particular requirements for the improvement of the Thickthorn Junction; it simply says that improvements to this junction are required in order to deliver the planned growth in the NPA. JCS Policy 10 says that detailed proposals will be developed through the SNSSP DPD. This has been superseded by the adoption of the NDP which performs the function of the SNSSP DPD in respect of Cringleford.
134. There are no policy requirements for improvements to the Junction in the LP. Policy IMP8 relates specifically to highway safety and the free flow of traffic. In this regard HE accepts that the traffic from the Wymondham, Hethersett and Cringleford developments to 2026 can be accommodated by the improvements proposed within the appeal scheme and so do not object to them. In this context, and given HE's role in any future improvements if proved to be necessary, there would be no breach of Policy IMP8.
135. The key policy for the Junction in the NDP is Policy TRA2, although this does not set out any detailed proposals. As explained by the Parish Council at the Inquiry, the Parish Council did not know how much land to put aside for highway improvements and the status of the Mott Macdonald Reports was unclear. The Parish Council did not know how much land would be required and, if the route of Option 13 was to be protected, how much more land would be required elsewhere to meet the housing commitment for Cringleford in the JCS. In the event, the Parish Council opted not to reserve the route of Option 13. Instead, Policy TRA2 of the NDP addresses the issue of the need to increase capacity at the Junction. The NDP, in the second supporting paragraph in Section 7.6, also identifies that improvements to the Thickthorn Junction are critical to cater for additional traffic arising from planned housing and science park growth.
136. Policy TRA2 needs to be considered in some detail; it comprises just three sentences. The first sentence identifies that the finance for the Junction improvements would come from developers of land in the area. This does not seem to have been followed by the Councils as this is the first scheme in the area which has been asked to make improvements to the Junction. No funds or improvements have been secured from the other nearby developments. In the longer term it is now agreed that rather than being developer funded, further improvements would be Government funded and provided by HE.
137. The second sentence says that applications will need to demonstrate that they do not prejudice the delivery of the options for improvement under consideration by the local authorities. In this regard at the time the application was determined there were several options being considered by the local authorities as set out in the two June 2013 Reports by Mott Macdonald. Option 13 would fall into that category. Any further Junction improvements, however, would be provided by HE and not by the local authorities. HE is still at Stage 1 in a 7 Stage process. The absence of a Committee resolution or any policy support for any particular option does not prevent some conflict with this part of the policy.
138. The first part of the final sentence refers to development proposals that would prevent delivery of an "emerging preferred or identified improvement scheme". The wording and, importantly, the punctuation of this part of the policy is vital. As set out above it was the subject of different interpretations by the main parties. In any written list it is normal practice to separate the components with commas; this avoids confusion and misinterpretation. This is how the lists in

NDP Policies TRA3 and TRA4 are written. In NDP Policy TRA2 there is no comma between “emerging” and “preferred” and so it reads “emerging preferred or identified...”, with just two components in the list separated by “or”. It does not comprise three components, “emerging or preferred or identified” as this would need to be written “emerging, preferred or identified”, for consistency with other NDP policies and for ease of interpretation, if that were the case.

139. The Council argued that its interpretation (a three component list) was likely to be correct as its witness had been involved in its formulation. I have taken into account the fact that the wording of the policy has been through an Examination, conducted by a barrister. I have no doubt that the policy should be interpreted as written. This is in line with the “Tesco Stores Ltd” High Court decision<sup>1</sup>.
140. While there are emerging improvement schemes, as identified by Mott Macdonald in June 2013, there are as yet no emerging preferred schemes. Option 13 has no official status insofar as it is just one option out of several and does not have adopted policy or Committee support. Indeed, HE has made it clear that it has only reached Stage 1 in the process. Option selection does not take place until Stage 2, so there cannot be an emerging preferred scheme yet. There is therefore no conflict with this part of the policy.
141. Having come to that conclusion in respect of the first part of the final sentence of the policy, it is not necessary to consider the second part as this part of the policy only bites if it is concluded that the delivery of an improvement scheme would be prevented by the scheme. In any case, HE raised no objections to the appeal scheme when consulted on it.
142. I conclude on this issue that the proposals would comply with most aspects of NDP Policy TRA2. The only area of non-compliance is the fact that the proposed development would conflict with one of the several options for junction improvement under consideration by local authorities. However, this is no longer significant as responsibility for further improvements to Thickthorn Junction now lies with HE rather than with the local authorities (which was not the position when the policy was adopted). HE has not objected to the development. I have also had regard to the fact that the Option 13 proposals are not supported by the Parish Council and would be in conflict with the recently adopted NDP.
143. The junction improvements proposed by the appellant would meet the likely increase in accordance with the requirements of Circular 02/2013. Further improvements would be provided by HE if required. This position was agreed in cross examination by the Council’s planning witness. In view of these considerations the proposals would accord with the development plan and with NDP Policy TRA2 in particular.

***Whether the development and associated junction improvements to Thickthorn Junction would have an adverse impact on the ability to cater for planned growth within the Norwich Policy Area up to 2026 [52-55, 79-89]***

144. The Council’s concerns relate solely to the southern part of the appeal site that lies to the south of the A11. It argues that its development for housing would have an adverse effect on planned growth in the NPA because some of this part

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<sup>1</sup> *Tesco Stores Ltd v Dundee CC* [2012] 2 P&CR 9

of the appeal site is likely to be required to enable improvements to the Thickthorn Junction. The cited policies in the JCS and the NDP require the provision of improvements to the Thickthorn Junction to cater for the planned growth which includes the housing schemes at Wymondham (2,200 dwellings), Hethersett (1,200 dwellings) and Cringleford (1,200 dwellings) as well as the expansion of Norwich Research Park.

145. The first point is that much of this planned growth already has the benefit of planning permission or, in the case of the remainder of the land at Cringleford, a Committee resolution to grant planning permission subject to the completion of a s106 Obligation. In this regard the provisions of Circular 02/2013 are pertinent as paragraph 27 refers to overall forecast demand which, in footnote 7, is defined as including the existing traffic flow plus traffic generated by development already committed, plus traffic likely to be generated by the development under consideration. In concluding that the proposals were not in conflict with the Circular, therefore, HE would have taken account of the proposals and the committed development. This takes account of much of the development likely in the area up to 2026.
146. HE, in its Note of 15 May 2015 (LFL6 Appx 2) refers to its consultants, Parsons Brinkerhoff, who carried out sensitivity testing to produce a forecast which did not have excessive queues on the circulating roundabout of Thickthorn Junction. This provided the confidence for HE to be content that the appeal scheme, including its proposed mitigation, was acceptable under the requirements of the Circular. The Note also confirms that further measures are likely to be necessary to ensure the efficient operation of the junction with full JCS growth in 2026. Nonetheless, the measures proposed as part of the current proposals are acceptable to HE under the terms of the Circular. HE has funding for the further works that may be necessary; these works would be carried out by HE using the RIS budget of £25-50m. The works would deliver sufficient capacity.
147. I have taken into account the Council's concerns regarding the acceptability of the appellant's scheme for the junction. It is now agreed that the degrees of saturation for each of the Mott MacDonald model, 2026 sensitivity test and high and low sensitivity tests are acceptable. While the scheme may result in excess queues that exceed the available stacking space on internal circulatory lanes, the scheme is acceptable to HE who manages the strategic road network in England. While the Council argued that HE's position is "entirely illogical", this is only insofar as the current proposals will not cater for planned growth until 2026. There is no requirement for the appeal proposals to cater for such growth.
148. In order to comply with NDP Policy TRA2 it is not necessary to demonstrate capacity to 2026; that is only necessary if the proposed scheme prevents an emerging preferred or identified improvement scheme. That is not the case here. The reasoning behind that conclusion is set out above.
149. Overall on this issue, therefore, there is no doubt that there will be adequate capacity at the Thickthorn Junction until 2026. Initially the capacity will be increased by the current proposals. Any necessary additional capacity will be provided by HE using the RIS budget. There is no emerging preferred or identified improvement scheme that would be affected by the appeal proposals. The proposals accord with the development plan.



***Whether the use of land to provide the required play pitches would conflict with the ability to deliver upgrades to the Thickthorn Junction [70, 113]***

150. At the time that the planning application was determined, the indicative plans showed that the playing pitch provision, required under NDP Policy SCC5, would be split between the northern and southern parcels and separated by the A11. The revised illustrative plan (Drawing No 350/PL/SP/002 Rev 2) shows the pitches to be grouped together on the southern parcel, close to the western boundary with the A47. This would be within the path of the highway improvement scheme described as Option 13. During the Inquiry the Council acknowledged that its only objection to this amended plan related to the conflict with the route of Option 13. If the SoS accepts my conclusions in respect of that highway proposal, then there would be no conflict with the ability to deliver upgrades to Thickthorn Junction. The amended indicative plan would be therefore be acceptable and in accordance with the NDP.

***The effect of the proposed development on the setting of The Round House and North House, Grade II listed buildings [71, 114, 119]***

151. This is not a matter of dispute between the main parties although the owner/occupier of The Round House made representations on the original planning application concerning the impact of the proposed development upon its setting.
152. The Round House is a Grade II listed building located about 15m from the south eastern boundary of the northern part of the appeal site. It dates from around 1805 and comprises an octagonal cottage, constructed of red brick with a black glazed pantiled roof, with a central octagonal chimney. Its architectural and historic interest stems for it being an early nineteenth century octagonal dwelling constructed by Sir Roger Kerrison as part of his estate. Sir Roger, it is believed, lived at Brooke House near Cringleford.
153. The house is now located within a triangle of land between the A11 Newmarket Road, Roundhouse Way and the appeal site. The two roads have a substantial roundabout at their junction. The Masterplan (Drawing 350/PL/003 Rev A) indicates that within this corner of the appeal site there would be a terrace of houses facing The Round House. They would be separated from it by a new access road and the existing garden of The Round House.
154. While there is modern suburban housing further north, the immediate surroundings of the house and its garden are open albeit largely made up of roads. Newmarket Road to the south appears on the 1882 Ordnance Survey map on its present alignment. Beyond the roads the land in the immediate area is mostly open and undeveloped. The appeal site does not appear to have had any relationship with The Round House, other than providing a rural setting, and the context has been changed by the development to the north; the construction of Roundhouse Way and the roundabout; and the duelling of Newmarket Road.
155. Nonetheless the proposals would complete the enclosure of the property. It would become completely divorced from any rural context and this would harm its setting. The proximity of the housing and, especially the access road, immediately to the west of the site boundary would result in some further harm to the setting. There would be scope in the submitted details for some planting along this boundary to mitigate the harm. The identified harm would be less

than substantial and, in accordance with advice in the Framework, the harm needs to be balanced with the public benefits of the proposals.

156. North House and the Farmhouse comprise an 18<sup>th</sup> Century house and an early 19<sup>th</sup> Century farmhouse in a roughly T-shaped plan form. They pre-date the railway that runs to the south. They are of historic interest due to their age and the fact that they are believed to have been constructed as the estate farm to Cringleford Hall which is itself Grade II listed and dates from the 17<sup>th</sup> Century. They may have been incorporated into the estate of Thickthorn Hall in the mid to late 19<sup>th</sup> Century when Cringleford Hall became a rectory. The appeal site may have formed part of the wider agricultural setting of the listed building.
157. The building lies to the south and east of the appeal site. The building has previously been extended to the north with single storey additions which are occupied as separate dwellings and these lie between the listed building and the appeal site. There is more recent housing close by to the east and north east. The Masterplan shows that the land to the west would remain open and that there would only be a single row of houses located some distance away in the land to the north. The land immediately to the north would remain open. In these circumstances there would be no harm to the setting of this listed building.

### **Conditions [120]**

158. If the Secretary of State is minded to allow the appeal I recommend that Conditions 1 to 51 (inclusive) set out in the Annex to this Report be imposed on any permission granted. In addition to the standard time condition (Condition 1) and those requiring the submission of further details (2), it is recommended that the approved plans are identified for the avoidance of doubt and in the interests of the proper planning of the area (3).
159. Further conditions are required in respect of site clearance (5), landscaping (5, 6, 8), tree protection (9, 10), external materials (12), and external lighting (42) where details need to be submitted and approved in the interests of the appearance of the area. The phasing (4) and density (7) of the development needs to be specified in order to comply with the terms of the planning application. The storage of waste and recycling bins (32) and the provision of fire hydrants (33, 34) are necessary as no details have been provided. A site investigation survey (39) is required, with appropriate remediation (40, 41) as necessary, in the interests of living conditions of future residents.
160. Ecological mitigation works (11) need to be specified and carried out in the interests of the ecology of the area. Details of the possible reuse of on-site materials need to be investigated (13) in the interests of sustainable development. Full details, including timing, of highway maintenance (14), design (15), parking (16), the management of construction traffic (17, 18), wheel cleaning facilities (19, 20), off site highway works (21, 22, 23, 24, 25, 26, 27, 28), a travel plan (29, 30), provision of a bus service (31), bicycle storage (32) need to be provided in the interests of highway safety in the area. Suitable surface water (35), foul water (36), water consumption (37) and energy generation (38) strategies are necessary in the interests of sustainable development and to ensure appropriate facilities are provided.
161. In order to protect residents during and after construction, schemes in respect of dust and noise (43), air quality (44), external noise (48) the operating hours

of the commercial parts of the development (45), their servicing arrangements (46) and their potentially unneighbourly equipment (47). An archaeological survey is necessary in the interests of the historic heritage of the area (49). Limits on the future use of the commercial units are necessary in the interests of living conditions of nearby residents (50).

162. If the appeal is allowed I recommend that neither of the disputed conditions (Conditions 52 and 53 in the Annex) be imposed. For the reasons set out above it is not necessary to impose either condition. They both seek to safeguard land for future highway works. However, it has not been demonstrated that such safeguarding is either necessary or desirable. It would be contrary to the provisions of the development plan and to the NDP in particular. In any event neither of the suggested conditions is necessary to make the development acceptable in planning terms to pass the tests in paragraph 206 of the Framework and paragraph 21a-003-20140306 of the PPG.

### **Section 106 Obligation [121]**

163. The appellant submitted a completed Obligation under s106 of the Act. It meets the Council's requirements and secures elements of the overall scheme that carry weight in favour of the proposals.

### **The Planning Balance**

#### ***Whether the benefits of the proposed development would outweigh any identified harm***

164. The Council cannot demonstrate a 5-year housing land supply and so the provision of up to 650 dwellings represents a substantial benefit. One-third of the dwellings would be affordable units (214 units in a 650 dwelling scheme) which would be a further benefit of the scheme. Other benefits of the proposed development are set out in the SoCG and include economic benefits for local businesses both during and after construction; the provision of jobs in the new businesses within the site; the provision of public open space including formal recreation facilities; the retention of key habitats; and the provision of landscaping. The s106 agreement, signed by the appellant, the Council and NCC, ensures that the affordable housing and public open space is provided as well as making financial contributions towards green infrastructure and a travel plan.
165. The scheme also provides improvements to the Thickthorn Junction. This is particularly important as improvements are required by the development plan. The NDP says that funding for this will be provided by developers in the area. No other major developments in Cringleford, nor the developers of other nearby large schemes, have been required to improve the Junction or make financial contributions. The contribution that this proposal will make towards improving the Junction is a further significant benefit of the development.
166. The proposals accord with the development plan. This requires improvements to this Junction; this scheme makes provision for them. The only potential conflict relates to that part of NDP Policy TRA2 that refers to prejudice to the delivery of the options for improvement under consideration by local authorities. Option 13 is an option that has been under consideration by the Council and NCC. However, these authorities no longer have responsibility for the Junction.

That function falls to HE who does not object to these improvements. Nor, indeed, does HE object to the proposals at all.

167. The remaining reasons for refusal relate to the proposed development being on land likely to be required for the carrying out of road improvements to the Thickthorn Junction. There is no doubt that the implementation of that part of this scheme that lies to the south of the A11 would prevent Option 13 from being constructed. That scheme, however, has not been advanced by HE. It is not an emerging preferred scheme. It does not have any status insofar as it is not in the development plan and there is no Committee resolution to pursue it.
168. The construction of Option 13 would be in direct conflict with the NDP. The NDP Proposals Map identifies the site as a "Housing Site Allocation area". The Parish Council was clear that this conflict was unacceptable. In addition to the impact on the Plan's ability to deliver the necessary land for housing, the construction of a new section of dual carriageway close to existing homes may well be unacceptable on amenity grounds. This would need to be tested through a public consultation exercise; this has not taken place.
169. There would be some harm arising from the impact of the proposed development on the setting of The Round House, a Grade II listed building. This harm would be very limited due to the development that has already taken place around this property and the fact that there is no evidence to show that it was historically linked to the appeal site. The harm would be less than substantial; that is agreed by all parties. In accordance with advice in the Framework, therefore, the harm needs to be weighed against the benefits of the proposals.
170. In the overall balance, therefore, the only identified harms relate to the fact that one of the options for the improvement of Thickthorn Junction (Option 13) would not be able to be pursued and that there would be some limited harm to the setting of a listed building. Against this must be weighed the provision of housing in a sustainable location in a District where there is no 5-year housing land supply. There would be economic and social benefits arising from the scheme and the development can be considered to be a sustainable form of development in accordance with the Framework. The proposals would accord with the development plan. In particular it would accord with the recently adopted NDP, giving the local community a direct say in the delivery of sustainable development within their parish. Overall, the identified harm does not outweigh the benefits of the scheme.

### **Overall conclusions**

171. The proposals accord with the development plan which includes a recently-adopted NDP. While the proposed development would prevent the delivery of one option for the improvement of Thickthorn Junction, this option has no development plan status. There has been no attempt to use compulsory purchase powers to acquire the land. HE, the body with statutory responsibility for the Strategic Road Network does not object to this scheme. The benefits of the scheme clearly outweigh the limited harm and so it is recommended that conditional planning permission be granted.

## **Recommendation**

**File ref: APP/L2630/A/14/2227526**

172. I **recommend** that the appeal be allowed and that planning permission be granted subject to Conditions 1 – 51 (inclusive) set out in the Annex to this Report.

*Clive Hughes*

Inspector

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Asitha Ranatunga, of Counsel	Instructed by Stuart Shortmen, NP Law
He called	
Brian Witten BSc CEng	Norfolk County Council
FCIHT MICE	
Richard Doleman MEng	Norfolk County Council
(Hons)	
Jo Hobbs BSc (Hons) MA	South Norfolk District Council
MRTPI	

### **FOR THE APPELLANT:**

Jeremy Cahill QC	Instructed by Turley Associates
He called	
Mathew Jones BA (Hons)	Turley Associates
DipTP MRTPI	
Robert Evans BA (Hons)	Canon Consulting Engineers
Civ Eng MA MCIHT	

### **INTERESTED PERSONS:**

Professor Malcolm Wagstaff BA	Cringleford Parish Council
PhD FRSA FRGS	

## **CORE DOCUMENTS**

CD1	Documents A01- A22 - Background
CD2	Documents B01- B23 – Post application submission documents
CD3	Documents C01- C09 – Development plan documents
CD4	Documents D01- D02 – Supplementary planning documents and guidance
CD5	Documents E01- E128 – Consultation responses
CD6	Documents F01- F05 – Committee reports
CD7	Documents G01- G22 – Technical papers
CD8	Documents H01- H05 – Appeal correspondence
CD9	Documents I01- I09 – Inspector appeal decisions
CD10	Documents J01- J06 – Secretary of State appeal decisions
CD11	Documents K01- K05 – Judgement of High Court
CD12	Documents L01- L09 – Supplementary core documents

## **DOCUMENTS SUBMITTED PRIOR TO THE INQUIRY BY APPELLANT**

LFL1	Standalone Planning Application Documents
LFL2	Drawings and Plans
LFL3	Additional documents submitted during determination
LFL4	Booklet of drawings for use during the Inquiry (A3 size)
LFL5	Proof of Evidence and Appendices of Mathew Jones
LFL6	Proof of Evidence and Appendices of Robert Evans
LFL7	Proof of Evidence and Appendices of Graeme Warriner
LFL8	Environmental Statement (Volumes 1-3)

## **DOCUMENTS SUBMITTED PRIOR TO THE INQUIRY BY COUNCIL**

- SNDC1 Proof of Evidence, Appendices and Reference Documents of Brian Witten
- SNDC2 Proof of Evidence and Appendices of Richard Doleman
- SNDC3 Proof of Evidence and Appendices of Jo Hobbs
- SNDC4 Neighbour notification letter and list of persons notified

## **DOCUMENT JOINTLY SUBMITTED PRIOR TO THE INQUIRY BY APPELLANT AND COUNCIL**

- J1 Statement of Common Ground

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

- Doc1 Bundle of Supplementary Core Documents (CD12; L- series)
- Doc2 Draft list of conditions
- Doc3 Position statement on housing land supply
- Doc4 Highways option H – storage lengths as per CCE model
- Doc5 Highways option H – storage lengths as per MM model
- Doc6 Report on the Examination into the Rother Local Plan Core Strategy – Inspector's Report 10 July 2014
- Doc7 Statement of Reasons – Blaby, Leicestershire (S62A/2014/0001) 22 July 2014
- Doc8 Opening statement on behalf of the Appellant
- Doc9 Council's opening remarks
- Doc10 A47 Trunk Road (Postwick Interchange Slip Roads) Order 201. – Inspector's Report 29 October 2013
- Doc11 Summary of Brian Witten's Proof of evidence LINSIG results
- Doc12 Draft s106 Agreement
- Doc13 Email dated 17 June 2015 signed by Parish Council concerning status of Parish Council letters to PINS
- Doc14 Correspondence (May/ June 2015) concerning Pre-action protocol for Judicial Review
- Doc15 Emails dated 17 June 2015 concerning modelling
- Doc16 Housing land supply joint position statement
- Doc17 Heritage Appraisal
- Doc18 Letter dated 14 September 2007 from GO-East concerning Local Plan policies
- Doc19 Bundle of plans with corrected drawing reference numbers
- Doc20 Brian Witten (MM) note on revised LinSig runs
- Doc21 Summary of MM LinSig results 19 June 2015
- Doc22 Email exchange concerning Highways Statement of Common Ground
- Doc23 Draft Highways conditions
- Doc24 List of agreed plans
- Doc25 Council's closing remarks
- Doc26 Closing submissions on behalf of the appellant
- Doc27 Costs application on behalf of the appellant
- Doc28 Council's response to costs application
- Doc29 Council's costs application
- Doc30 Emails dated April 2015 re Highways Statement of Common Ground
- Doc31 Email dated 24 April 2015 re Highways Statement of Common Ground

## **DOCUMENTS SUBMITTED POST-INQUIRY**

- PID1 Agreement under s106 of the Act  
PID2 Agreed list of conditions (conditions 52 & 53 not agreed)

## **PLANS**

- A Drawing No 350/PL/002 – site location plan
- B Drawing No 350/PL/004 Rev B – parameter plan, movement hierarchy
- C Drawing No 350/PL/005 – parameter plan, land use and landscape
- D Drawing No 350/PL/006 – parameter plan, building heights
- E Drawing No 350/PL/007 – parameter plan, density
- F Drawing No 350/PL/SP\_001 Rev 03 – indicative sports pitches layout
- G G871-TA008 Rev A – site access Round House Way, Newmarket Road
- H G871-TA009 Rev B – Round House Way A11 Newmarket Road
- I G871-TA010 Rev A – Round House Way The Pines
- J G871-TA011 – Round House Way staggered junction
- K G871-TA012 Rev A – Round House Way site access
- L G871-014 Rev D – Proposed Thickthorn Improvement (Option 1 and 2)

## **Annex: Suggested conditions (53 conditions)**

- 1) Application for the approval of the reserved matters must be made before the expiration of THREE YEARS from the date of this permission. The development hereby permitted should be begun before the expiration of TWO YEARS from the date of approval if the last of the reserved matters to be approved.
- 2) No development in relation to a phase of the development hereby granted outline permission shall take place until the plans and descriptions giving details of the reserved matters referred to above shall have been submitted to and approved in writing by the local planning authority for that phase.

These plans and descriptions shall relate to:

Appearance, scale, landscaping and layout of the dwellings and buildings forming the Use Classes A1 to A5 and D1 hereby permitted together with the precise details of the type and colour of the materials to be used in their construction.

- 3) The development shall be constructed in accordance with the following drawings:

350/PL/002 – Site Location Plan

350/PL/004 Rev B – Parameter Plan – Movement Hierarchy

350/PL/005 – Parameter Plan – Land Use and Landscape

350/PL/006 – Parameter Plan – Building Heights

350/PL/007 – Parameter Plan – Density

350/PL/SP\_001 Rev 03 – Indicative Sports Pitches Layout

G871-TA008 Rev A – Site Access Round House Way Newmarket Road

G871-TA009 Rev B – Round House Way A11 Newmarket Road



G871-TA010 Rev A – Round House Way The Pines

G871-TA011 Round House Way Staggered Junction

G871-TA012 Rev A – Round House Way Site Access

G871-014 Rev D – Proposed Thickthorn Improvement (Option 1 and 2)

- 4) No development shall commence until a phasing plan for the development hereby approved has been submitted to and agreed in writing with the local planning authority. The development shall be carried out in accordance with the agreed phasing plans (updated as necessary as the development progresses) unless otherwise agreed in writing with the local planning authority.
- 5) With the exception of site clearance works, site investigations and tree protection works, no development shall commence on site until a landscaping strategy in relation to land within the application boundary in particular directly adjoining the adjacent development site as identified within the Housing Site Allocation Area within the Cringleford Neighbourhood Development Plan (2014) is submitted to and agreed in writing with the local planning authority to ensure a coordinated approach to landscaping at the site boundaries with adjoining development. The agreed scheme shall then be implemented as such in perpetuity. This shall then inform the landscaping strategy to be agreed under condition 8 of this permission.
- 6) With the exception of site clearance works, site investigations and tree protection works, no development shall commence on site until a design code for the entire application site, with particular reference to land directly adjoining the adjacent development site as identified within the Housing Site Allocations Area within the Cringleford Neighbourhood Development Plan (2014), is submitted to and agreed in writing with the local planning authority to ensure a coordinated approach to design across the site and at the site boundaries with adjoining development. The agreed scheme shall then be implemented through the approval of subsequent reserved matters.
- 7) The development hereby permitted within the red line of the application site as shown on Location Plan numbered 350/PL/002 shall not exceed a net density of 25 dwellings per hectare, and for the purposes of calculating this net density only land within the Housing Site Allocation Area as identified in the Cringleford Neighbourhood Development Plan (2014) shall be used in this calculation. This density shall then be demonstrated as such in subsequent reserved matters applications unless otherwise agreed in writing by the Local Planning Authority.
- 8) No development within each identified phase shall take place until full details of both hard and soft landscape works in relation to that phase have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved for that phase. These details shall include:
  - proposed finished levels or contours;
  - means of enclosure;
  - car parking layouts;

- other vehicles and pedestrian access and circulation areas;
- hard surfacing materials;
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
- proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines etc. indicating manholes, supports etc.);
- retained historical landscape features and proposals for restoration, where relevant.

Soft landscaping works shall include:

- planting plans;
- written specifications (including cultivation and other operations associated with plant and grass establishment);
- schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- implementation programme.

All hard and soft landscaping works shall be carried out in accordance with the approved details. The works shall be carried out in accordance with a programme agreed in writing with the local planning authority.

If within a period of FIVE years from the date of planting, any tree or plant, or any tree or plant planted in replacement for it, is removed, uprooted, is destroyed, dies or becomes in the opinion of the local planning authority seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

- 9) No trees or hedges shall be cut down, uprooted destroyed, lopped or topped, other than in accordance with the approved plans and particulars, without the previous written approval of the local planning authority. Any trees or hedges removed without consent shall be replaced during the next planting season November/March with trees of such size and species as agreed in writing with the local planning authority.
- 10) No works or development shall take place within each phase of development until a Tree Protection Plan (and accompanying Method Statement/s if appropriate) have been submitted to, and approved in writing by, the Local Planning Authority. The submitted details are to be guided by the recommendations set out in BS5837 Trees in Relation to Construction. Unless otherwise agreed, all approved tree protection measures are to be installed prior to the commencement of development work to implement this planning permission.

The approved tree protection measures are to be maintained in good condition and observed throughout the construction period. Unless otherwise agreed in writing by the Local Planning Authority, the following activities may not be undertaken at any time within the identified Construction Exclusion Zones and fenced areas:

the storage and/or siting of: vehicles, fuel, materials, site huts or other buildings or ancillary equipment:

raising or lowering of ground levels;

installation of underground services, drains etc.;

- 11) No works shall commence (including clearance works but with the exception of tree protection works) until full details of the ecology mitigation and enhancement measures to be undertaken as part of the scheme and timing for implementation, and a habitat management plan have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved details shall be implemented in full in accordance with the approved timetable and retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.
- 12) With the exception of any site clearance works, site investigation works and tree protection works, no development of each phase of the scheme shall take place until details, including samples and colours where required, of the materials used in the construction of the external surfaces of that phase of the development hereby permitted have been submitted to and approved in writing by the local planning authority.

The materials to be used in the development shall be in accordance with the approved details and retained in perpetuity unless otherwise agreed in writing with the local planning authority.

- 13) Prior to the commencement of development the following will take place:
  - A site investigation for mineral resources will be carried out in accordance with a borehole/trial pit location plan (reference 8/0631-SK-10-P1), together with a written methodology for the investigations (also within plan reference 8/0631-SK-10-P1), submitted to and approved in writing by the Local Planning Authority in discussion with the Mineral Planning Authority.
  - This site investigation will inform a Materials Management Plan-Minerals (MMP-M). The MMP-M will consider; through particle size distribution testing, the extent to which onsite materials which could be extracted during the proposed development would meet specifications for use on site. The MMP-M shall be submitted to and approved in writing by the Local Planning Authority in discussion with the Mineral Planning Authority (Norfolk County Council).

The MMP-M should outline the amount of material which could be reused on the site; and for material which cannot be used on-site its movement, as far as possible by return run, to an aggregate processing plant.

The developer shall keep a record of the amounts of material obtained from on-site resources which are used onsite and the amount of material returned to an aggregate processing plant through the MMP-M. The developer shall provide an annual return of these amounts to the Local Planning Authority and the Mineral Planning Authority, or upon request of either the Local Planning Authority or Mineral Planning Authority.

The development shall then be carried out in accordance with the approved MMP-M.

- 14) Prior to the first occupation of any dwelling within each phase of the development, details of the proposed arrangements for future management and maintenance of the proposed streets within that phase of the development shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The agreed details shall be adhered to thereafter in perpetuity unless otherwise agreed in writing with the Local Planning Authority.
- 15) Prior to the commencement of each phase of the development hereby permitted full details (in the form of scaled plans and/or written specifications) shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority to illustrate the following: Roads/Footways/Cycleways; Foul and on-site water drainage; Visibility splays; Access arrangements; Parking provision in accordance with adopted standard; Loading areas; Street Lighting; Public Right of Ways (PROW); and Turning areas.
- 16) Development shall not commence within each phase of the development until a scheme detailing provision for on-site parking for construction workers for the duration of the construction period for that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented throughout the construction period of that phase.
- 17) Prior to the commencement of any construction works within each phase of the development, a Construction Traffic Management Plan and Access Route which shall incorporate adequate provision for addressing any abnormal wear and tear to the highway shall be submitted to and approved in writing with the Local Planning Authority in consultation with Norfolk County Council as Local Highway Authority together with proposals to control and manage construction traffic using the 'Construction Traffic Access Route' and to ensure no other local roads are used by construction traffic.
- 18) For the duration of the construction period for each phase of the development, all traffic associated with the construction of the development will comply with the Construction Traffic Management Plan for that phase and use only the 'Construction Traffic Access Route' and no other local roads unless approved in writing with the Local Planning Authority in consultation with the Local Highway Authority.
- 19) No works shall commence within each phase until the details of wheel cleaning facilities for construction vehicles associated with the proposal have been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.
- 20) For the duration of the construction period associated with each phase of the development, all traffic associated with the construction of the development permitted will use the approved wheel cleaning facilities referred to condition 19.
- 21) Notwithstanding the details indicated on the submitted drawings no works above slab level shall commence on land with the application boundary to the south of the A11 unless otherwise agreed in writing until detailed drawings for the off-site highway improvement works in the form of alterations to and signalisation of the Roundhouse Way roundabout have

- been submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.
- 22) Prior to the first occupation of any development hereby permitted on land to the south of the A11, the off-site highway improvement works (including PROW works) referred to in condition 21 shall be completed to the written satisfaction of the Local Planning Authority in consultation with the Local Highway Authority.
  - 23) No more than 50 dwellings of the permitted development shall be occupied unless and until an agreed design for highway mitigation works at A11/A47 Thickthorn roundabout junction has been approved in writing by South Norfolk District Council following consultation with Highways England and Norfolk County Council as highway authorities. The design shall be substantially in the form of that shown on drawing no. G871/014 Rev D dated 4 April 2014 produced by Cannon Consulting Engineers titled Proposed Thickthorn Improvement (options 1 & 2). The design shall comply in all respects with the Design Manual for Roads and Bridges and shall include the provision of appropriate MOVA traffic signal control as modelling the Transport Assessment and agreed with Highways England.
  - 24) No more than 100 dwellings of the permitted development shall be occupied unless and until the approved design in condition 23 above has been constructed, opened to traffic and certified as such by South Norfolk District Council in consultation with Highways England and Norfolk County Council as Highway Authorities.
  - 25) Notwithstanding the details indicated on the submitted drawings, prior to the occupation of the 50th dwelling unless otherwise agreed in writing detailed drawings for the off-site highway improvement works in the form of widening and the provision of additional lanes in both directions on the A11 (Newmarket Road) between the Roundhouse Way roundabout and the Thickthorn roundabout as indicated on drawing G871-014 Rev D shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.
  - 26) Prior to the occupation of the 100th dwelling of the development hereby permitted the off-site highway improvement works (including PROW works) referred to in condition 25 shall be completed to the written satisfaction of the Local Planning Authority in consultation with the Local Highway Authority.
  - 27) Notwithstanding the details indicated on the submitted drawings, prior to the occupation of the 200th dwelling or prior to the commencement of any agreed phase which provides access to Cantley Lane, unless otherwise agreed in writing detailed drawings for the off-site highway improvement works in the form of providing improved widened footways and new footway/cycleways along Cantley Lane as well as improving Cantley Lane to a 6m wide carriageway and tying this into the existing Cantley Lane as indicated on drawing G871/TA009 Rev B shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.
  - 28) Prior to the occupation of 250 dwellings of the development hereby permitted or prior to the first occupation of any dwelling on any phase which will provide access to Cantley Lane, the off-site highway

- improvement works (including PROW works) referred to in condition 27 shall be completed to the written satisfaction of the Local Planning Authority in consultation with the Local Highway Authority.
- 29) Upon commencement of construction of the development hereby permitted an Interim Travel Plan shall be submitted, approved and signed off by the Local Planning Authority in consultation with the Local Highway Authority.
  - 30) No part of the development hereby permitted shall be occupied prior to implementation of the Interim Travel Plan referred to in condition 29. During the first year of occupation an approved Full Travel Plan based on the Interim Travel Plan referred to in condition 29 shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. The approved Full Travel Plan shall be implemented in accordance with the timetable and targets contained therein and shall continue to be implemented as long as any part of the development is occupied subject to approved modifications agreed by the Local Planning Authority in consultation with the Local Highway Authority as part of the annual review.
  - 31) Upon commencement of the development to procure, for a period of 5 years from the first occupation of the development, a bus service to provide a service of 30 minute frequency between the development and Norwich City Centre between the hours of 07:00 – 22:00 Monday to Friday 08:00 – 20:00 Saturday and 09:00 – 18:00 on Sunday. Such service is to be provided by a bus operator or operators with details of the service and operators to be approved in advance in writing by the Local Planning Authority in consultation with the Local Highway Authority.
  - 32) With the exception of any site clearance works, site investigation works and tree protection works no development shall take place within each phase of the scheme until details of the following on site provisions for that phase have been submitted to and agreed in writing with the local planning authority:
    - a) bicycle storage for residents, staff and visitors as required for each phase; and
    - b) waste and recycling bin storage and collection facilities for each phase.

No occupation of any associated dwelling or non-residential use within that phase shall take place until any approved bicycle storage and parking and servicing facilities serving that dwelling or non-residential use have been provided in accordance with the details as agreed and, once provided, they shall be retained as such thereafter.
  - 33) With the exception of any site clearance works, site investigation works and tree protection works no development within each phase of the proposed development shall take place unless a scheme has been submitted to and agreed by the Council for the provision of fire hydrants (served by mains water supply on a minimum 90mm diameter main) for that phase. Thirteen fire hydrants shall be provided across the site. No dwelling shall be occupied within each phase until the hydrants serving the property or group of properties has been provided to the satisfaction of the Local Planning Authority.

- 34) With the exception of any site clearance works, site investigation works and tree protection works no development in relation to non-residential uses within each phase shall take place unless a scheme has been submitted to and agreed by the Council for the provision of an agreed number of fire hydrants (served by mains water supply on a minimum 150mm diameter main) and positioned in an agreed location. No development shall come into use or be occupied until the hydrants serving the property or group of properties has been provided to the satisfaction of the Local Planning Authority.
- 35) The development hereby permitted shall not be commenced until such time as a surface water drainage scheme using sustainable urban drainage systems where feasible has been submitted to, and approved in writing by, the local planning authority. The scheme shall include:
  - Infiltration testing in accordance with BRE365 in the location of the proposed infiltration devices.
  - Design of the infiltration system to contain and drain the 1 in 100 year rainfall event including climate change.
  - Modelling of the contributing pipe network to demonstrate that it will not flood in the 1 in 30 year rainfall event including climate change.
  - Modelling of any flood volumes from the pipe network in the 1 in 100 year rainfall event including climate change, and details of where the water will be stored to prevent buildings flooding or offsite flows.
  - Details of who will maintain the scheme for the lifetime of the development, along with details of the proposed maintenance schedule, in accordance with The SUDS Manual.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

- 36) No development shall take place until a foul water strategy has been submitted to and approved in writing with the local planning authority. No dwellings shall be occupied until the works have been carried out in accordance with the foul water strategy so approved unless otherwise approved in writing by the Local Planning Authority.
- 37) The development hereby approved shall be designed and built to achieve a water consumption rate of no more than 80 litres/person/day. No occupation of any dwelling shall take place until an assessment which relates to that dwelling which confirms that the development has been constructed in accordance with the above specified water usage has been submitted to and agreed in writing by the local planning authority. All completed water conservation measures identified shall be installed in accordance with the details as agreed and thereafter permanently retained.
- 38) No development shall take place in pursuance of this permission until a scheme for generating a minimum of 10% of the predicted energy requirement of the development from decentralised renewable and/or low carbon sources (as defined in Annex 2: Glossary of the NPPF 2012 or any subsequent version ) has been submitted to and approved in writing by the

local planning authority. None of the development shall be occupied until the approved scheme has been implemented and made operational and the approved scheme shall remain operation for the lifetime of the development.

- 39) The development hereby permitted shall not commence until an investigation and risk assessment for each phase of the development has been completed in accordance with a scheme to be first agreed in writing by the Local Planning Authority, to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The written report(s) shall include:
- (i) a survey of the extent, scale and nature of contamination;
  - (ii) an assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; groundwaters and surface waters; and ecological systems,
  - (iii) an appraisal of remedial options if required,
  - (iv) A detailed remediation scheme (for that phase of development) to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 40) The development of each phase of the scheme hereby permitted shall not commence (unless otherwise agreed in writing by the Local Planning Authority) until:
- An approved contamination remediation scheme has been carried out in full; and
  - A validation report that demonstrates the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority.
- 41) In the event that contamination that was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. All development within that phase shall cease and shall not recommence until:
- 1) a report has been submitted and agreed in writing by the Local Planning Authority which includes results of an investigation and risk assessment together with proposed remediation scheme to deal with the risk identified and
  - 2) the agreed remediation scheme has been carried out and a validation report demonstrating its effectiveness has been approved in writing by the Local Planning Authority.
- 42) No external lighting on non-residential uses hereby permitted shall be erected unless full details of its design, location, orientation and level of



illuminance (in Lux) have first been submitted to and agreed in writing with the local planning authority. Such lighting shall be kept to the minimum necessary for the purposes of security and site safety and shall prevent upward and outward light radiation. The lighting shall thereafter be implemented in accordance with the approved details and shall be retained as such thereafter.

- 43) No construction work shall begin on each phase of the development until a scheme for protecting the proposed and existing dwellings from noise and dust from the construction work associated with that phase, has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before any part of the noise or dust-sensitive development is first occupied and shall be retained as such until all development is complete.
- 44) No construction work shall begin on each phase of the development until a further air quality report as required for that phase is submitted to and agreed in writing to the Local Planning Authority. This shall consider the air quality in relation to traffic from the proposed internal roads as well as at the Thickthorn Interchange, and identify measures to address any issues such as the position of dwellings and the use of non-opening windows with mechanical ventilation. The agreed scheme shall then be implemented as such for each phase as required.
- 45) The hours of use of any unit within Use Classes A1 to A5 and D1 hereby permitted shall first be agreed in writing with the local planning authority. The agreed hours of use shall then be implemented as such unless otherwise agreed in writing with the local planning authority.
- 46) With the exception of any site clearance works, site investigation works and tree protection works no development in relation to each non-residential phase shall take place unless the hours of servicing and delivery to this development is first agreed in writing with the local planning authority. The agreed hours of servicing and use shall then be carried out as such in perpetuity unless otherwise agreed in writing with the local planning authority.
- 47) No generator, compressor, chilling unit or cooling fan shall be installed on the site without precise details of the equipment being submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details as approved.
- 48) With the exception of any site clearance works, site investigation works and tree protection works no development in relation to each residential phase shall take place unless a further noise report identifying appropriate noise control and mitigation measures for noise from surrounding roads to proposed dwellings for that phase has been submitted to and agreed by the Council. This shall consider the position of proposed dwellings, using non-opening windows and mechanical ventilation, the position of more noise sensitive rooms within dwellings and noise mitigation features in the landscape. No dwelling within each phase shall be occupied until the noise mitigation measures have been provided for that phase to the satisfaction of the Local Planning Authority.
- 49) A) No development within each proposed phase shall take place until a Written Scheme of Investigation for a programme of archaeological works

for that phase of the development has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment of recovered material
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

B) No demolition/development shall take place within each phase other than in accordance with the Written Scheme of Investigation approved under part (A).

C) development within each phase shall not be occupied until the site investigation and post investigation assessment for that phase has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under part (A) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

- 50) Notwithstanding the provisions of Schedule 2, Part 3, of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order, with or without modification), the retail uses hereby permitted shall be used for convenience retail and for no other purpose in Class A1 of the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification). For the avoidance of doubt uses within Classes A2 – A5 are permitted, but any subsequent change once brought into use would be limited by the above condition, unless otherwise agreed in writing with the LPA.
- 51) Notwithstanding the provisions of section 55(2)(a) of the Town and Country Planning Act 1990 or the Town and Country Planning General Permitted Development Order 2015 (or any Act or Order revoking and re-enacting that Act or Order, with or without modification), the floorspace of any non-residential unit hereby permitted shall have a maximum floorspace not exceeding 500 square metres.

The two alternative conditions that have been suggested by the County Council but are unacceptable to the appellant:

Either:

- 52) No development shall commence within the area of land to the south of the A11 within the application site to safeguard for a highway improvement scheme for the Thickthorn Interchange until it is adequately demonstrated that this land is not required for such highway improvements.

Or:

- 53) The line illustrated on the approved plan indicates the approximate extent of land to be safeguarded for future road improvements and all development on the Application Site including any boundary walls or fences shall be set back behind this line. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, (or any Order revoking or re-enacting that Order), no buildings or structures shall be erected between the said line and the public highway without the express permission of the Local Planning Authority.



## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS**

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

#### **Challenges under Section 288 of the TCP Act**

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### **SECTION 3: AWARDS OF COSTS**

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

#### **SECTION 4: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.