

<b>ITEM:</b>		<b>RECOMMENDATION:</b>	REFUSAL
<b>REF NO:</b>	3PL/2017/1204/O	<b>CASE OFFICER</b>	Jon Berry
<b>LOCATION:</b>	NECTON Pentes 63 Hale Road Necton	<b>APPNTYPE:</b>	Outline
<b>APPLICANT:</b>	Mr B J Bell Pentes, 63, Hale Road Necton	<b>POLICY:</b>	Part In Set Bndry
<b>AGENT:</b>	Parsons & Whittlely Ltd 1 London Street Swaffham	<b>ALLOCATION:</b>	N
<b>PROPOSAL:</b>	Residential development and associated access - amended design to 3PL/2017/0048/O		
		<b>CONS AREA:</b>	N
		<b>LB GRADE:</b>	N
		<b>TPO:</b>	N

#### REASON FOR COMMITTEE CONSIDERATION

The application is referred to Committee as a major development proposal. However, the Council is unable to make a decision as the Applicant has lodged an appeal because the application was not determined within 13 weeks of submission. This was due to outstanding matters not being resolved which are detailed in this report. The Committee is being asked to give a recommendation on what the decision would have been had the application been presented to Members before the appeal was made. This can then be reported to the Planning Inspectorate along with the supporting statement before the deadline of Wednesday 11th April 2018.

#### KEY ISSUES

Principle of development and policy matters.  
Local character, amenity and trees.  
Access.  
Flooding  
Ecology.

#### DESCRIPTION OF DEVELOPMENT

The application has been submitted in outline form. The only fully detailed matter being put forward for approval at this stage is the means of access between 61 and 63 Hale Road. The other matters of appearance, landscaping, layout and scale are all reserved from this application. However, an indicative layout of 16 dwellings set around a private drive has been included in the submission. This shows that the existing house at 63 Hale Road would be retained but the garage to this property would need to be demolished to provide access which would be constructed to an adoptable 5.8 metre width including a 1 metre wide service strip/pathway and turning heads. Foul drainage would be discharged in a new foul sewer extended across Hale Road and connected into Kingfisher Road.

The application is supported by a number of documents and technical reports, including a Design & Access

Statement, Ecological Appraisal, Arboricultural Report / Tree Survey and a Flood Risk Assessment.

## **SITE AND LOCATION**

The application site is located to the south of Necton on the eastern side of Hale Road behind a row of existing properties which front this road. The north of the site bounds Chantry Lane which is predominantly residential in character, however, the site and surroundings to the south and east are very much of a rural character. The Necton Brook flows through the site, effectively splitting the total land area (which covers approximately 1.3 hectares) into two parcels.

The site is broadly 'L' shaped and is comprised of a mix of scrub grassland, wooded and landscape areas. There are a large number of trees within and bordering the site.

## **EIA REQUIRED**

No

## **RELEVANT SITE HISTORY**

An outline planning application referenced 3PL/2017/0048/O for a residential development of the site with allowed matters reserved with the exception of means of access was withdrawn by the Applicant in April 2017. This had been recommended for refusal on the following grounds:

The development was outside of the defined settlement boundary;  
Harm relating to the character and appearance of the area/impact on trees;  
Issues relating to flood risk;  
Highway safety;  
Ecological Impact.

## **POLICY CONSIDERATIONS**

The following policies of the adopted Breckland Core Strategy and Development Control Policies and the adopted Site Specific Policies and Proposals Document, including the Proposals Maps, have been taken into consideration in the determination of this application. The provisions of the National Planning Policy Framework and National Planning Policy Guidance have also been taken into account, where appropriate

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SS1 Spatial Strategy  
CP.01 Housing  
CP.04 Infrastructure  
CP.05 Developer Obligations  
CP.08 Natural Resources  
CP.10 Natural Environment  
CP.11 Protection and Enhancement of the Landscape  
CP.14 Sustainable Rural Communities  
DC.01 Protection of Amenity

DC.02 Principles of New Housing  
DC.04 Affordable Housing Principles  
DC.11 Open Space  
DC.12 Trees and Landscape  
DC.13 Flood Risk  
DC.16 Design  
DC.19 Parking Provision

NPPF With particular reference to paragraphs 14, 17, 32, 34, 35, 49, 103 & 118  
NPPG National Planning Practice Guidance

#### **OBLIGATIONS/CIL**

The site covers more than 0.17 hectares of land and so Policy DC04 triggers a requirement for affordable housing. The Appellant has confirmed acceptance of a legal agreement to secure 40% affordable housing on site and is preparing a draft for the Planning Inspectorate.

#### **CONSULTATIONS**

#### **NECTON PARISH COUNCIL**

Raise objections on the grounds that the site is located outside of the settlement boundary and due to flood risk concerns.

#### **FLOOD & WATER MANAGEMENT TEAM**

The Lead Local Flood Authority has written to the Planning Inspectorate on 19th March 2018 to put forward that it is not considered enough information has been provided to show that development is appropriate at this location. Senior Flood Risk Officers have repeatedly requested on site specific information to model the actual risk of flooding so an achievable proposal for housing and associated mitigation can be proposed. However, the Appellant is relying on strategic mapping which does not include any allowance for climate change. This information has a significant amount of uncertainty attached and a precautionary approach is necessary. There are serious concerns that once the risks of flooding are actually modelled at this location, there will be very limited engineering solutions to ensure that the proposed development is not at risk and that the risk of flooding elsewhere is not increased. It is the opinion of the Authority that this development is not suitable at this location.

#### **ENVIRONMENTAL HEALTH OFFICERS**

No objections or comments.

#### **NORFOLK COUNTY COUNCIL HIGHWAYS**

Highways Officers have written to the Planning Inspectorate on 19th March to confirm the Authority does not wish to restrict the granting of planning permission as appropriate access arrangements can be achieved via a number of conditions.

#### **NATURAL ENGLAND**

No comments to make.

#### **TREE AND COUNTRYSIDE CONSULTANT**

In general the indicative layout respects the better quality trees on the northern and eastern boundaries. The central trees are generally of lower value with limited arboricultural/landscape value. Adjustments are requested to the positioning of plots 2 and 3 to reduce the likelihood of post development pressure for heavy

pruning/removal.

**CONTAMINATED LAND OFFICER**

Recommend approval providing the development proceeds in line with the application details and subject to conditions to alleviate environmental concerns.

**HISTORIC ENVIRONMENT SERVICE**

No objections.

**HOUSING ENABLING OFFICER**

A Section 106 Agreement is required to secure the affordable housing contribution.

**NORFOLK FIRE AND RESCUE SERVICE**

1 fire hydrant required via a planning condition.

**ANGLIAN WATER SERVICE**

The foul drainage from this development is in the catchment of Necton Water Recycling Centre that will have available capacity for these flows.

From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management so the Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board.

<b>NORFOLK RIVERS INTERNAL DRAINAGE BOARD</b>	No Comments Received
<b>THE PLANNING INSPECTORATE</b>	No Comments Received
<b>PRINCIPAL PLANNER MINERAL &amp; WASTE POLICY</b>	No Comments Received
<b>OBLIGATIONS OFFICER, NORFOLK COUNTY COUNCIL</b>	No Comments Received
<b>ECONOMIC DEVELOPMENT</b>	No Comments Received
<b>ENVIRONMENT AGENCY</b>	No Comments Received

**REPRESENTATIONS**

3 letters have been received raising concerns on the following grounds:

impact on drainage and flood risk in a flood plain area;  
need to manage the Necton watercourse;  
proposed road layout less appropriate than on previous plans;  
questionable visibility;  
loss of gardens to accommodate the new access;  
new houses located on a busy street;  
threat to the village environment;  
plots 1 and 2 should be bungalows only;  
the outline layout may change; and  
uncertain management of open areas, swales and the brook.

1 letter of support has been received on the basis that other developments have been allowed outside the

guidelines and the village lacks dwellings which the younger generation can afford.

<b>ASSESSMENT NOTES</b>
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1.0 This application is referred to Committee as a major development proposal.

2.0 Principle of development and policy matters.

2.1 The development site is located adjacent to the village of Necton, though outside the settlement boundary, and identified in the council's spatial strategy as a local service centre. The proposal is therefore contrary to local plan policies SS1, DC02 & CP14 which aims to restrict new development outside of settlement boundaries. The strategy for all Local Service Centre villages will be primarily around service protection and enhancement and development to meet local needs. Policy SS1 states that over the remainder of the plan period, 140 homes will be built in the village of Necton. These homes will be developed entirely from existing commitments.

2.2 It is now accepted that the council does not have a 5 year supply of deliverable sites for housing, and that position has been clarified since the first application. Accordingly this triggers paragraph 14 of the NPPF, in that there is a presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites. This means granting permission unless specific policies in the NPPF indicate that development should be restricted or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

2.3 The benefits and demonstrable harm require a balancing exercise in order to satisfy the requirement of paragraph 14.

2.4 The provision of housing to meet local needs is identified as a key component of sustainable development and in this respect the NPPF seeks to boost significantly the supply of housing. The NPPF also encourages the avoidance of isolated homes in the countryside and the location of development where there is access to alternative modes of transport other than the private car. As paragraph 8 of the NPPF outlines, there are three strands to sustainability; economic, social and environmental, each mutually dependent, and not assessed in isolation from each other.

2.5 Whilst not a settlement identified for significant growth, as a local service centre Necton does have sustainable attributes including access to local services and sustainable transport links through the local bus service.

2.6 As detailed in the appellant's submissions and the supporting literature around this scheme, and the previous application, the site had been assessed as potentially suitable for a housing scheme. A final number was reduced owing to flood concerns on part of the site. By the time of the pre-submission report the site's allocation for housing had been removed through sequential testing due to flooding concerns, with other sites proposed to meet the housing need of 79 dwellings. These sites would provide 55 dwellings, resulting in a shortfall of 24 units. The appellant is of the view that when judged against the newly proposed HOU3 policy, this site would be suitable to meet part of the shortfall.

2.7 It should be firstly noted that any emerging plan which has not passed through examination can only be afforded limited weight. Policy HOU3 introduces a degree of flexibility to meet the shortfall of the plan period

bit advocates it being met adjacent to settlement boundaries. The scheme is however assessed under the existing decision making framework with a presumption in favour of sustainable development.

2.8 As stated above Necton does have some sustainable attributes, including a primary school, post office/shop, doctor's surgery and a bus service linking to higher order settlements. This weighs in favour of the development. The provision of housing, including an element of social housing, to meet local needs is another sustainable attribute as is the economic activity and future local expenditure that this site would generate. The sustainable expansion of rural settlements to enhance the vitality of local communities is espoused under para. 55 of the NPPF. The proposal would comply with this national policy objective.

2.9 However the proposal would result in the development of a greenfield site and this is in conflict with one of the 12 core planning principles in the NPPF which aims to make more effective use of land by reusing land that was previously developed. Furthermore as detailed above under the existing and future plan the village is deemed appropriate for very limited residential growth.

2.10 Since the preparation of the report under application 3PI/2017/1204/O the decision making framework has significantly altered. Policy objections to schemes outside of settlement boundaries carry significantly diminished weight. Whilst the site was removed from an allocation for housing, this was largely under sequential testing relating to flood risk and technical issues. The "tilted balance" of NPPF paragraph 14 is now engaged and the proposed development is not considered to be sustainable in environmental terms for the reasons set out below. It is therefore recommended that the application should be refused in principle.

### 3.0 Effects on local character, amenity and trees

3.1 Whilst the application has been submitted in outline with access only included at this stage the applicant has submitted an indicative layout plan which shows a single point of access to the site and a private drive serving 16 dwellings.

3.2 The application site is characterised by its setting on the rural fringe of the village. It is considered that the development of the site with 16 units would have a significant and detrimental urbanising effect. In respect of local character Policy DC16 requires design proposals to preserve or enhance the existing character of an area and in relation to form and character it states that development should complement the natural landscape, natural features and built form that surround it. The development proposals as drafted are deemed to fail to preserve or enhance the existing character of the area and do not complement the natural landscape or existing verdant and rural character of the area.

3.3 For these reasons, it is not considered that the proposal would be in keeping with the character, appearance and landscape of the area. The proposal would thus fail to accord with Core Strategy Policies CP11 and DC16 and with relevant guidance in the NPPF.

### 4.0 Access

4.1 NCC Highways have stated that they would not raise an objection in principle to the scale of development at this location. Acceptable arrangements can be secured via planning conditions.

4.2 In light of the above it is considered that the proposal is acceptable on the grounds of Highway Safety and the proposed development would comply with policy CP4(e) of the adopted Core Strategy DPD as well as having regard to paragraph 32 of the NPPF.

## 5.0 Flooding

5.1 Core Strategy Policy DC13 requires new development to be located in areas at least risk of flooding. It further states that new development will be expected to minimise flood risk to people, property and places.

5.2 The Local Lead Flood Authority has serious concerns regarding the development at this location and do not believe that this development is in accordance with National Planning Policy ~Framework paragraph 103 and 109 by ensuring the satisfactory management of local flood risk, surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the surface water drainage system operates as designed for the lifetime of the development. It is considered that the proposed properties will be at risk of flooding and the development will be at risk of flooding elsewhere from building on functional floodplain (Flood Zone 3), intercepting overland flow routes and a drainage scheme that would be overwhelmed by water not orientating from the development.

As such it is not considered that the applicant has adequately demonstrated that the development would minimise the risk of flooding to people, property or places and is contrary to policy DC13 of the adopted Core Strategy and DC policies DPD.

## 6.0 Ecology

6.1 The previous application was accompanied by an Ecological Appraisal, (Development at Hale Road, Wild Frontier, April 2016) and a Bat and Great Crested Newt Survey Report, (Land at 63 Hale Road, Greenlight, 14 June 2016), which was been reviewed by ecological technical advisors to the council.

6.2 The Council's ecological consultants noted that the Ecological Appraisal recommends further survey work to confirm the status of great crested newt, reptiles and bats at this site before a full impact assessment can be undertaken. A reptile survey report had not been provided. The Ecological Appraisal also details anecdotal evidence from the owner that reptiles have been seen on site. The reptile surveys should be undertaken as recommended and reported to the local planning authority prior to determination with any required impact assessment and avoidance and mitigation strategy.

6.3 The Council's Ecologist also commented that it is unclear exactly what areas of habitat are to be lost / impacted and that the proposals may result in a net loss of biodiversity on site and impacts to protected species. The Ecologist further commented that habitat loss must be reduced wherever possible and an Ecological Impact Assessment must be undertaken in line with CIEEM guidelines based on the latest proposals and details of habitat loss.

6.4 Under this application currently subject of the appeal the same reports have been submitted. The advice provided by Norfolk County Council Ecologists under the previous application (dated 22/02/2017) that further details and surveys are required still applies. This includes the following requirements:

Ecological Impact Assessment in line with current proposals (including amendment following advice for reduction in habitat loss)

Bat dusk/dawn surveys in line with BCT 2016 good practice guidelines

Reptile surveys

Clarification of the building inspection results for the garage

Breeding Bird Surveys

Great crested newt surveys

Construction Environmental Management Plan (CEMP)

Landscape and Ecology Management Plan (LEMP) including details of restricted artificial lighting.

6.5 No further details in relation to these requirements has been received. The same reports received for the previous application have been submitted under this application. It is not considered that the ecological concerns have been overcome and the original reason for refusal on ecology grounds suggested under the withdrawn planning application can be substantiated. In the council's view such matters need to be addressed at outline stage in order to ascertain the feasibility of the scheme and to shape future development.

6.6 The applicant has not demonstrated that the proposal would not have an adverse effect upon matters of ecological interest including bats and reptiles and the proposal thus fails to accord with policies CP10 of the adopted Core Strategy DPD and paragraph 118 of the NPPF.

## 7.0 Conclusion

7.1 The Development Plan defines what is sustainable on a local level, the site is outside of the existing settlement boundary and for this reason the proposal conflicts in principle with policies which seek to focus new housing within defined Settlement Boundaries and the parameters of sustainability set out in the Local Plan. It is acknowledged that the council cannot demonstrate a five year housing land supply and the proposal has therefore been judged against the three dimensions to sustainable development in respect of the "tilted balance".

7.2 The proposal would have a significant urbanising effect and it would not be in keeping with the character and appearance of the area. In addition to this there are concerns regarding flood risk and the ecological impacts of the proposals. The proposed development is not considered to be sustainable in environmental terms.

7.3 Whilst the proposal would result in social and economic benefits associated with additional housing these are limited and are considered to be significantly outweighed by the disbenefits which have been identified. It is therefore recommended that Members agree with Officer advice to the Planning Inspectorate that the likely decision of the council would have been to refuse planning permission for the reasons set out below.

### RECOMMENDATION

**Refusal of Outline Planning Permission**

### REASON(S) FOR REFUSAL

**9900 Non-std reason for refusal**  
The site is outside of the existing settlement boundary for Necton and the proposal conflicts in principle with Policies SS1, DC02 and CP14 of the Core Strategy and Development Control Policies Development Plan Document, (2009), which seek to focus new housing within defined Settlement Boundaries. The proposed development is not considered to be



sustainable in environmental terms and this outweighs the small social and economic benefits arising from the scheme. This does not meet the requirements of paragraph 14 of the National Planning Policy Framework.

**9900 Non-std reason for refusal**

The proposed development of a verdant site on the edge of the village would not be in keeping with the character, appearance and landscape of the area. The proposal would thus fail to accord with Core Strategy Policies CP11 and DC16 of the adopted Core Strategy DPD and with relevant guidance in the NPPF.

**9900 Non-std reason for refusal**

The applicant has not adequately demonstrated that the development would minimise the risk of flooding to people, property or places and is contrary to policy DC13 of the adopted Core Strategy DPD.

**9900 Non-std reason for refusal**

Insufficient information has been submitted to allow a full assessment of the implications of the development on the ecology and wildlife within and around the site and the ecological and nature conservation value of the surrounding European Protected Sites. The proposal is thus contrary to policies CP10 of the adopted Core Strategy DPD and paragraph 118 of the NPPF.