



CODE Development
Planners



**Representation GNLP
Regulation 19**

**Reasonable Alternative
Site GNLP0332R and
GNLP0334R
GNLP0337
GNLP0581/2043**

**Submitted on behalf of
Drayton Farms
Limited and RG Carter
Farms Limited**

19 March 2021

CONTENTS

EXECUTIVE SUMMARY	1
1 INTRODUCTION.....	4
2 NOT IN ACCORDANCE WITH LEGAL REQUIREMENTS.....	6
3 NOT JUSTIFIED	6
4 NOT EFFECTIVE.....	12





EXECUTIVE SUMMARY

We are instructed by Drayton Farms Limited and RG Carter Farms Limited in respect of two sites GNLP 0332R and GNLP 0334R situated immediately east and west of Reepham Road directly adjacent to the built-up area of Hellesdon but largely in the administrative parish of Horsford.

Both sites have been consistently promoted in earlier stages of the local plan process and have been justified by a substantial bank of evidence in respect of landscape, access, drainage, master planning, airport safety, aircraft noise, ecology, arboriculture, access to existing facilities and services and heritage.

In contrast, the methodology used in the preparation of the plan and assessment of Reasonable Alternative sites has failed to be justified by proportionate and consistent evidence as required by paragraph 35 of the National Planning Policy Framework

In view of the above concerns and to ensure the plan is properly justified and sound under this test: we recommend that:

- a) proportionate evidence, properly informed by a Sustainability Appraisal should be prepared and consulted on either to demonstrate the suitability of the proposed allocation sites and contingency site in comparison with other Reasonable Alternative sites or to demonstrate the suitability of sites GNLP0332R and GNLP0334R as either allocated sites or contingency sites.
- b) Subject to evidence and consultation, the GNDP could elect to allocate or identify both sites or one site for development or contingency, as alternatives to presently allocated or identified contingency sites or as additional allocated or contingency sites.

In addition, the plan also fails the test of being effective. The GNDP has chosen to justify the GNLP's housing trajectory over the plan period based on delivery for the last two years as set out in the Annual Monitoring Reports including the 5 year land supply over the next few years and a projection for the remainder of the period to be refined further as the GNDP receive additional feedback from Statements of Common Ground. Data from Statements of Common Ground is yet to be defined, explained, tested and published.



It is our submission that a plan preparation uninformed by the anticipated rate of development for specific sites and instead based on an average of past delivery rates on different sites with entirely different issues at a different time with different economic and social circumstances is likely to be not sound and is certainly not transparent and tested for its ability to deliver sufficient houses within the plan period. In our view, this is particularly important where a plan such as the GNLP seeks to supply a large number of homes on large scale development formats. As stated in paragraph 72 of the Framework, in identifying large scale development, authorities should *“make a realistic assessment of likely rates of delivery, given the lead-in times for large scale sites....”*

We support the GNDP’s approach to identifying contingency site(s) to assist in ‘repairing’ any under-delivery during the plan period but the single site identified as a contingency site GNLP0581/2043 at Costessey has not been properly justified and itself would be likely to experience delays in delivery given its requirement for substantial on-site and off-site infrastructure improvements.

In view of the above concerns and to ensure that the plan is effective and sound under this test we recommend that:

- a) evidence should be produced to define, explain and allow proper testing of the anticipated delivery rates of all committed and allocated sites. This would be in accordance with advice contained in paragraph 72 of the Framework.
- b) Additional medium sized site allocations should be identified in order to reduce the over-reliance of the plan’s supply of housing on large-scale development sites. This would be in accordance with advice contained in paragraph 68 of the Framework which confirms how small and medium sized sites can make an important contribution to meeting the housing requirement of an area.
- c) Additional contingency sites should be identified to provide greater assurance that additional allocations could be made and delivered quickly if housing delivery in the plan area fell short of expectation. As with additional allocations referred to in b) above additional contingency sites should include small and medium sized sites sufficient to make a material impact on delivery and capable of quick delivery and build-out.
- d) Alternatively, other contingency sites should be identified to replace the Costessey contingency site referred to in Policy GNLP0581/2043. The site is not considered to be justified and suitable for development and, in any event, is unlikely to be delivered quickly given the substantial necessary and in some cases uncertain improvements and mitigation.

It is further our submission that there are a number of serious errors in the process undertaken by the GNDP so far which renders the plan not legally compliant.

The approach taken in the assessment of sites and referred to in various site assessment booklets does not represent a transparent, objective or evidence based approach. It would appear, from the information available, that the GNDP has failed to properly comply with its legal obligation to assess the reasonable alternatives on

a comparative basis, having regard to a transparent and objective evidence, as is required by The Strategic Environmental Appraisal Directive 2001.

These submissions should be read in conjunction with the associated Legal Opinion prepared by Walker Morris in respect of the Plan's compliance with the requirements of The Environmental Assessment of Plans and Programmes Regulations 2004 and The Strategic Environmental Appraisal Directive 2001, attached as appendix 1 to this statement.



1 INTRODUCTION

- 1.1 We are instructed by Drayton Farms Limited and RG Carter Farms Limited in respect of two sites located immediately west and east of Reepham Road directly adjacent to the existing built-up area of Hellesdon but largely in the administrative parish of Horsford.
- 1.2 Both sites have been consistently promoted in earlier stages of the local plan process and are known as GNLP0332R (east of Reepham Road and extending to a frontage with Holt Road to the east) and GNLP0334R (west of Reepham Road). GNLP0332R extends to 64ha and is indicated to have an approximate capacity for 600-700 homes together with extensive open recreational space and providing green link corridors between Hellesdon, and the existing 'hub' of sports facilities located immediately adjacent to the north eastern boundary of the site. The sports facilities here include The Nest (managed by the Norwich Community Sports Foundation) and the Norfolk County Cricket ground. The proposed development would also provide additional pedestrian and cycle links to the important wider green network to the north of the city of Norwich. GNLP0332R also includes an area for potential employment use centered around an existing collection of small-scale employment uses at Manor Farm. The scale of proposed employment uses has been reduced by the landowners during the course of the local plan process and it has always been made clear that the employment uses are not an essential element of the proposal and could, if the GNLP wished, be removed from the proposal. The site's location directly adjacent to Arden Grove Infant and Nursery school also presents the potential to provide expansion space for a school which has a constrained site.
- 1.3 GNLP0334R extends to 11.7ha and is indicated to have capacity for 250-300 homes together with additional open recreational space and opportunities to provide new, improved, and extended access to the wider green infrastructure network.
- 1.4 Development of the sites presents the realistic and achievable potential of providing green links to the wider green network of footpaths in the area together with important enhancements and extensions to adjacent areas of ecological interest. The same landowners own and control extensive areas of adjacent agricultural and wooded land and have a track record of providing new and improved footpath links throughout the area to assist in delivering the council's vision as detailed in paragraph 149 of the GNLP Part 1.
- 1.5 Earlier local plan submissions were made at the time of the Call for Sites and the Regulation 18C plan consultation. The Regulation 18C submissions were accompanied by substantial evidence to support the suitability of the sites in terms of access, landscape, drainage, heritage, arboriculture, ecology, safety related to the nearby airport, accessibility to existing services, education and aircraft noise. For completeness, this statement is accompanied by copies of the previous submission documents as follows:
- Position Statement (Update) prepared by CODE Development Planners Ltd (March 2020)

- Landscape and Visual Appraisal prepared by Robert Myers Associates (March 2020)
- Landscape Report (incorporating Illustrative Development Framework Plan) prepared by Robert Myers Associates (March 2020)
- Heritage Desk Based Assessment prepared by Orion (May 2019)
- Tree Survey and Constraints Plan prepared by Hayden's (February 2020)
- Preliminary Ecological Appraisal prepared by Wild Frontier (June 2019)
- Bird Hazard Risk Assessment prepared by Airfield Wildlife Management Ltd (July 2019)
- The Monitoring and Management of Gulls on Commercial and Industrial Buildings in the vicinity of Norwich International Airport prepared by Airfield Wildlife Management Ltd (July 2019)
- Surface Water Drainage Strategy prepared by Richard Jackson Engineering Consultants (March 2020)
- Access and Transportation Strategy prepared by Richard Jackson Engineering Consultants (March 2020)
- Supplementary Position Statement prepared by CODE Development Planners Ltd (July 2020)
- Access and Transportation Strategy Briefing Note prepared by Richard Jackson Engineering Consultants Ltd (July 2020)
- Aircraft Noise Assessment prepared by AJA Acoustics (June 2020)

1.6 In summary, our submission contends that the Plan fails the tests of soundness on grounds of not being justified or effective as required by paragraph 35 of the Framework. The 'evidence' to justify the selection of preferred allocations and to reject other Reasonable Alternatives including the sites referred to above, is at best insufficient but more accurately simply non-existent. Furthermore, we conclude that given the over-reliance on large-scale development sites and the likely uncertainties about the delivery trajectories of a number of key allocated and committed housing sites, the Plan fails the test of being effective. We reserve the right to comment further on this point if and when the GNDDP publish their evidence of delivery rates on specific sites.

1.7 Given the size and location of housing sites which have not been justified and the scale of potential under-delivery the failings undermine the soundness of the plan as a whole.

1.8 These submissions should be read in conjunction with the associated Legal Opinion prepared by Walker Morris in respect of the Plan's compliance with the requirements of The Environmental



Assessment of Plans and Programmes Regulations 2004 and The Strategic Environmental Appraisal Directive 2001, attached as appendix 1 to this statement.

- 1.9 Notwithstanding the failings of the Plan and its preparation process we do believe that it remains open to the GNDP to correct the errors and prepare an addendum and Modifications with appropriate evidence and consultation for final submission of the Plan for examination. Failing this, then we would suggest that the appointed Inspector recommends appropriate Modifications are made to the plan to make it sound.

2 NOT IN ACCORDANCE WITH LEGAL REQUIREMENTS

- 2.1 It is our submission that there are a number of serious errors in the process undertaken by the GNDP so far which renders the plan not legally compliant.
- 2.2 The heart of the issue in the present case is that the evidence demonstrates the Sustainability Appraisal process has not been taken into account and/or utilised as the basis for the selection of the 'preferred options' and the rejection of other Reasonable Alternatives.
- 2.3 The approach taken in the assessment of sites and referred to in various site assessment booklets does not represent a transparent, objective or evidence-based approach. It would appear, from the information available, that the GNDP has failed to properly comply with its legal obligation to assess the Reasonable Alternatives on a comparative basis, having regard to a transparent and objective evidence, as is required by The Strategic Environmental Appraisal Directive 2001.
- 2.4 A formal legal opinion is attached at Appendix 1.

3 NOT JUSTIFIED

- 3.1 Paragraph 35 of the Framework explains that for a Plan to be sound it must be '*Justified*' – "*an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence*".
- 3.2 While we acknowledge that Planning Practice Guidance at paragraph 038 affords some discretion to local planning authorities about the need to commission evidence in light of possible cost and delay, it remains an established principle that policies need to be justified. It is our submission that justification of policies which allocate and identify large areas of land for substantial forms of development must be carefully and specifically assessed together with all Reasonable Alternatives.
- 3.3 The GNDP Site Assessment Process Methodology (SAPM) document explains the method adopted by the GNDP in assessing the suitability of sites. Using the earlier HELAA process as a basis for further assessment, paragraph 1.10 of the SAPM confirms:

"The aim of the site assessment booklets is to provide background evidence to the selection of sites for allocation in Part 2 of the Plan in a clear, consistent manner."

3.4 The SAPM further explains the process by which sites were assessed. Paragraph 1.8 of the SAPM explains that following an initial sift of sites.

“the shortlist of ‘reasonable alternative’ sites was then discussed in detail with highways, development management, flood authority and children’s services colleagues to come up with a list of preferred sites for allocation. Written comments were also provided by minerals and waste. Each group of colleagues undertook their own assessment of the sites and then roundtable discussion took place in the form of workshop sessions, where the merits of each site were debated and agreements sought on the preferred sites for allocation. In some cases, further discussion and negotiation was needed to ensure that all parties were happy with the sites that had been chosen.”

3.5 This appears to represent the principal part of the site assessment process. There is no reference to the preparation of specific evidence on issues such as access or landscape for example. Equally, there is no reference to the role of the Sustainability Appraisal.

3.6 Sites GNLP0332R and GNLP0334R were considered at various stages of the HELAA process and then again in the further assessment process. These followed the methodology described in the SAPM referred to paragraphs 3.3 and 3.4 above and reported in the relevant area site assessment booklets. Both sites were considered throughout the HELAA process to be suitable for development. The HELAA RAG comparison tables identified site 0332R as green (defined by the HELAA generally as acceptable) and amber (defined by the HELAA generally as any harm being capable of mitigation) for all categories except compatibility with neighbouring uses for which it was identified as red (defined by the HELAA as “Neighbouring/adjoining uses to the proposed site would be incompatible with the proposed development type with no scope for mitigation”). The HELAA RAG comparison table identified site 0334R as green or amber for all categories.

HELAA RAG table

Site Reference	Categories														
	Site access	Access to services	Utilities Capacity	Utilities Infrastructure	Contamination/ground stability	Flood Risk	Market attractiveness	Significant landscapes	Sensitive townscapes	Biodiversity & Geodiversity	Historic environment	Open Space and GI	Transport & Roads	Compatibility with neighbouring uses	
GNLP0332R	Amber	Amber	Amber	Green	Green	Green	Green	Amber	Amber	Amber	Green	Amber	Amber	Red	
GNLP0333	Amber	Amber	Amber	Green	Green	Green	Green	Green	Amber	Amber	Green	Green	Amber	Red	
GNLP0334R	Amber	Amber	Amber	Green	Green	Green	Green	Amber	Amber	Amber	Green	Green	Amber	Amber	

3.7 One might have anticipated further proportionate evidence to be gathered in the subsequent assessment processes to identify the full extent of any remaining concern, possible mitigation and,



where identified as red, to test the accuracy of such a conclusion. However, this does not appear to be the case. The methodology continued to identify both sites up to and including stage 6 of a 7 stage process as Reasonable Alternative sites.

- 3.8 However, at Stage 7 and following the “discussion and negotiation” process referred to in paragraph 1.8 of the SAPM (referenced in paragraph 3.4 above) the booklet explains under the heading of ‘Settlement Based Appraisal of Reasonable Alternative Sites.’

“Eight reasonable alternative sites have been identified in the Horsford, Felthorpe and Haveringland cluster at stage 5. These sites were considered to be worthy of further investigation to look at their potential for allocation as the initial assessment did not flag up any major constraints that would preclude allocation. These sites have been subject to further discussion with Development Management, Highways, Flood Authority and Children’s services in order to identify preferred sites for allocation and their comments are recorded under stage six above. As part of this further discussion, it was decided that site GNLP0264 was the most appropriate site to allocate for 30-40 dwellings due to its brownfield nature within the existing built-up area of the village. None of the other reasonable alternative sites were considered to be suitable for allocation, some on highway grounds, some on landscape and airport safety grounds, one on ecological grounds and one because it was deemed to be too small to accommodate the minimum size of allocation.”

- 3.9 The reasons stated for site GNLP 0332R being unreasonable are:

“This site was considered worthy of further investigation due to its location as an urban extension to Hellesdon. Development here would benefit from proximity to the extensive range of services and facilities in Hellesdon. However, the site raises potentially significant landscape issues given the scale of development and setting between the existing built edge and the Broadland Northway and it is therefore not considered to be reasonable for allocation. Noise and safety concerns with the airport are also critical. Surface water suds are unlikely to be allowed due to the potential to attract birds.”

- 3.10 The reasons stated for site GNLP 0334R being unreasonable are:

“This site was considered worthy of further investigation due to its location as an urban extension to Hellesdon. Development here would benefit from proximity to the extensive range of services and facilities in Hellesdon. However, the site is not considered to be reasonable for allocation as it would represent a significant expansion into the countryside and would impact on the character of Reepham Road. Noise and safety concerns linked with the airport are also critical. Surface water suds are unlikely to be allowed due to the potential to attract birds. Roadside trees may impact on achieving suitable access.”

- 3.11 Seeking further detail to justify these reasons we find no evidence but simply unsubstantiated comments from Development Management colleagues made during the 'discussion and negotiation' between stage 5 and stage 7 as follows:

GNLP0332R

"The site raises potentially significant landscape issues given scale of development and setting between existing built edge and NDR. Critical would be how it relates to existing settlement so that it is an integrated urban extension and not an 'add on'. Character of Reepham Road feels different to character of A140 due to proximity of airport and NDR junctions. Noise and safety concerns with airport also critical. Airport would not permit surface water suds in this proximity to airport due to risk of bird strike. South-west of the site allocated as recreational open space under HEL4"

GNLP0334R

"Site would be a significant expansion into countryside and impact character of Reepham Road. Critical would be how roadside trees are dealt with to provide access as these provide attractive feature. Also, critical how site relates to existing built form and services so that it is an integrated urban extension. Noise and airport safety issues. CWS to west which may need buffer."

- 3.12 Notwithstanding the submission of a substantial suite of evidence in March and July 2020 related to the Reg 18C plan consultation process which robustly challenged the comments made in respect of landscape, character, noise and safety concerns with the airport, loss of roadside trees, access to services and ecology, no further evidence, consideration, or response from the GNDP has been identified or subsequently forthcoming. Indeed, the failings of the GNDP's evidence and justification has been compounded further by presenting as 'evidence' to the Regulation 19 plan in Appendix B of the Booklet a repeat of the same unsubstantiated comments for rejecting the sites and additionally in the case of site GNLP 0334R stating the concerns about aircraft noise and safety due the "location of the site under the flight path". Site GNLP 0334R is not located under the flight path and in any event, the evidence produced on behalf of the landowner demonstrates that having quantified airport noise and safety issues neither should amount to a reason to reject development on either site.



- 3.13 In addition to the lack of evidence to support the rejection of the sites and the lack of any acknowledged consideration of the evidence submitted by the landowner, there is equally no acknowledged consideration of the unique benefits of delivering development on the sites which should be weighed in the planning balance. The sites offer the opportunity to greatly enhance the recreational offer available to existing and future residents in both on-site provision of additional multi-functional open space, safe pedestrian, and cycle access to the core recreational facilities at The Nest located adjacent to the north eastern boundary of site GNLP0332R and access to the wider countryside. The importance of these benefits is emphasised by the fact that such benefits are the focus of one of the key and specific visions of the GNLP. Paragraph 149 of the GNLP Part 1 explains this vision.

“The development of a multi-functional green infrastructure network will continue across Greater Norwich. This enhanced network will help our communities mitigate and adapt to the effects of climate change, by providing for biodiversity gain through improved and linked habitats, reducing flood risk and improving opportunities for active travel and leisure. Improved access to the countryside will be provided and the quality of our environmental assets will be enhanced. Visitor pressure on the Broads and other internationally and nationally protected sites will be reduced by new and improved green infrastructure both on and linked to developments, including delivery of the North West Woodland Country Park in Horsford.”

- 3.14 The recently granted planning permission (20161066) for up to 250 homes adjacent to School Road in Drayton (allocated site GNLP DRA1) will deliver additional off-site footpath links adjacent to Reepham Road in the direction of sites GNLP0332R and 0334R thereby affording, together with other improvements, specific opportunities to provide meaningful and necessary new green infrastructure links towards Drayton, Horsford, the wider countryside and the North West Woodland Country Park in Horsford. The applicant and landowner of the Drayton application 20161066 is the same landowner of site GNLP0332R.
- 3.15 While it is disappointing and condemning of the process to find no evidence supporting the stated reasons for concluding that sites GNLP0332R and GNLP0334R are unreasonable for allocation it is also confusing to find an inconsistent approach to identifying GNLP 0337 at nearby Taverham for 1,400 homes as suitable as a preferred allocation. The site Assessment Booklet for Taverham contains a similar HELAA comparison RAG table to that contained in the Horsford, Felthorpe and Haverlingland Site Assessment Booklet for sites GNLP0332R and GNLP 0334R. Other than for compatibility with neighbouring uses, the assessment has very similar conclusions to those for GNLP0332R and GNLP0334R. However, despite being in the only location between the built edge of Taverham and the Broadland Northway and representing a significant expansion into the countryside and considerably more visible from receptors in landscape terms to sites 0332R and 0334R the preferred allocation site (0337) conclusions and indeed Development Management comments contain no reference to any landscape or character concerns. Furthermore, the assessment of GNLP 0337 makes no mention of the criticism raised for sites 0332R and 0334R concerning the possible concerns

of the Airport in relation to surface water suds. Although further distant from the airport, site 0337 is still within the 13km radius safeguarding zone where bird strike impact should be queried and where surface water suds should be assessed.

3.16 The site assessment process has also identified two sites, (GNLP0581 and GNLP2043) in Costessey directly adjacent to one another as 'Reasonable Alternative' sites to be brought forward for c800 homes "*should this prove to be required due to low delivery of allocated housing sites*". In our view, if sites are to be identified in a local plan as sites to be brought forward in certain future possible circumstances and benefit from the presumption in favour of adopted up to date planning policy under s 38(6) of the Planning and Compulsory Purchase Act 2004 then those sites must also be fully justified and demonstrated to be deliverable in line with all plan making guidance.

3.17 The HELAA noted that both sites 0581 and 2043 are located in the Norwich Southern Bypass Landscape Protection Zone and in the designated river valley which has traditionally been seen as a particularly sensitive and protected landscape. The Development Management comment made at Stage 6 of the assessment process for the 11.7 hectare site GNLP 2043 is categoric:

"This site is not suitable for allocation due to its impacts on form and character and landscape issues."

3.18 Notwithstanding this assessment, the site, together with the adjacent site 0581, emerges as a site considered to be suitable as a contingency for c800 dwellings with no apparent additional supporting evidence. In our view, the approach and conclusions which identify these two sites as suitable for development are firstly inconsistent with that adopted in the case of sites GNLP0332R and GNLP0334R and secondly are not supported by evidence which justifies the conclusions.

3.19 If the intention of the SAPM is, as stated in its paragraph 1.10, to select sites in a transparent and consistent manner, the process has manifestly failed in this case.

3.20 **Suggested remedy to make plan justified.**

3.20.1 In view of the above concerns we recommend that:

a) proportionate evidence, properly informed by a Sustainability Appraisal should be prepared and consulted on either to demonstrate the suitability of the proposed allocation sites and contingency site in comparison with other Reasonable Alternative sites or to demonstrate the suitability of sites GNLP0332R and GNLP0334R as either allocated sites or contingency sites.

b) Subject to evidence and consultation, the GNLP could elect to

- allocate both sites GNLP0332R and GNLP0334R for residential led development as an alternative or in addition to allocated sites;
- allocate either of sites GNLP0332R or GNLP0334R for residential led development as an alternative or in addition to allocated sites;



- identify both sites for contingency as an alternative or in addition to site GNLP0581/2043;
or
- identify either site for contingency as an alternative or in addition to site GNLP0581/2043.

4 NOT EFFECTIVE

4.1 Paragraph 35 of the Framework explains that for a Plan to be sound it must be “*Effective – “deliverable over the plan period...”*”

4.2 A number of recent examinations into local plans elsewhere have concluded that in those cases the plans were not sound because they had failed to demonstrate that the delivery within the plan period of the identified housing requirement could be relied upon.

4.3 The following paragraphs explain our concern that the GNLP is in danger of being found unsound for similar reasons.

4.4 Advisory background

4.4.1 Paragraph 73 of the Framework states:

“Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites.”

4.4.2 Paragraph 67 of the Framework explains that:

“Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability, and likely economic viability. Planning policies should identify a supply of:

- a) specific deliverable sites for years one to five of the plan period; and*
- b) specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15 of the plan.”*

The glossary to the Framework provides definitions of deliverable and developable.

“Deliverable: *To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered within five years.....”*

“Developable: *To be considered developable, sites should be a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.”*

- 4.4.3 Paragraph 72 of the Framework encourages the consideration of meeting large plan wide housing requirements through the identification of large-scale development opportunities, but, at the same time urges authorities to make a realistic assessment of likely rates of delivery.

“The supply of large numbers of new houses can often be best achieved through planning for large scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities.”

- 4.4.4 In identifying such opportunities authorities should:

“d) make a realistic assessment of likely rates of delivery, given the lead-in times for large-scale sites, and identify opportunities for supporting rapid implementation.....”

- 4.4.5 Paragraph 68 of the NPPF offers a suggestion to provide a balanced form of delivery with the additional identification of small and medium sized sites.

“Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.”

4.5 GNLP approach

- 4.5.1 The GNLP has chosen to justify the GNLP’s housing trajectory over the plan period based on delivery for the last two years as set out in the Annual Monitoring Reports including the 5 year land supply over the next few years and a projection for the remainder of the period to be refined further as the GNLP receive additional feedback from Statements of Common Ground. Data from Statements of Common Ground is yet to be defined, explained, tested, and published. The text which accompanies Appendix 6 of the publication plan states:

“The housing trajectory is considered a robust projection, especially in the short-term, for the submission of the plan. As time moves on and new evidence emerges, it will be possible to update average delivery rates with more precise projections through the examination of the plan. Updates will be informed by the plan’s monitoring framework, the annual five-year land supply and further engagement with development industry representatives. Feedback from site promoters to date has shown that the majority are confident that their sites can start early and would therefore deliver more quickly than shown in the trajectory. However, given the uncertainty over the medium and longer term, an average is a better illustration of the potential to deliver. The trajectory illustrates that potential delivery exceeds local housing need in every year.”

- 4.5.2 Appendix 6 quantifies the totals of each component of housing delivery over the plan period 2018-2038:

“Reflecting table 6 of this plan, the components of the housing trajectory for the 49,492 homes are:



- *housing completions during the first two years of the plan, 2018/9 and 2019/20;*
- *the existing commitment of development sites as at April 2020 (31,452);*
- *new allocations resulting from this plan (10,704);*
- *delivery of small-scale sites of 3 or 5 homes enabled by Policy 7.5 of the GNLP (800);*
- *the expected supply of homes by windfall sites (1,296)."*

4.5.3 As explained in paragraph 73 of the Framework the plan should consider whether it is appropriate to set out the anticipated rate of development for specific sites. In this case, the GNLP at the publication stage and earlier stages of the plan preparation process has chosen not to set out the anticipated rate of development for specific sites and thereby test the robustness of assumptions made about the delivery of committed and allocated sites and the likely relevance of averages based on past experiences.

4.5.4 In addition, it is worth noting that the components of housing delivery as detailed in Table 6 of the plan includes as part of its new allocations an assumption that 1,200 homes shall be delivered through the South Norfolk Village Clusters Housing Sites Allocation Plan. This plan is divorced from the GNLP both in its assessment and consideration of sites and in the timing of its publication and examination. There is therefore no opportunity to consider and examine whether or not 1,200 homes of the assumed housing delivery are deliverable or developable as defined by paragraph 67 of the Framework.

4.6 Soundness concern

4.6.1 It is our submission that a plan preparation uninformed by the anticipated rate of development for specific sites and instead based on an average of past delivery rates on different sites with entirely different issues at a different time with different economic and social circumstances is likely to be not sound and is certainly not transparent and tested for its ability to deliver sufficient houses within the plan period. In our view, this is particularly important where a plan such as the GNLP seeks to supply a large number of homes on large scale development formats or in a concentrated geographical area where all sites would be seeking to accommodate and compete for the same market demand. As stated in paragraph 72 of the Framework, in identifying large scale development, authorities should *"make a realistic assessment of likely rates of delivery, given the lead-in times for large scale sites...."*

4.6.2 We understand from the GNLP that the submission version of the plan will be accompanied by the anticipated delivery rates of all the committed and allocated sites once all the data has been received by the GNLP from developers of the committed and allocated sites. We reserve the right to comment further on this at the time but as a matter of principle we fail to understand how the absence of this data now can be used to accurately inform the preparation of the plan and conclusions on its effectiveness in delivering the identified housing requirement.

4.6.3 While appreciating the plan has provided a buffer and a contingency site this is insufficient to resolve the concern and instill sufficient flexibility and confidence that over the plan period sufficient homes will be delivered. Appendix 2 demonstrates the reliance of the plan's housing supply in the key area in and around Norwich and in the Cambridge Norwich Tech corridor on large-scale sites, many with key delivery issues to resolve. These include issues ranging from ownership, infrastructure, market saturation and a history of delayed delivery. Quantifying these with any semblance of accuracy requires an understanding of anticipated delivery rates for each site, something which has not been made available, scrutinised and tested in the preparation of the plan. Our assessment of the scale of sites has concentrated in and around Norwich and in the Cambridge Norwich Tech corridor because paragraph 135 of the GNLP Part 1 confirms the plans concentration on these areas for sustainable growth.

"We plan to concentrate the building of new homes in and around Norwich and in the Cambridge Norwich Tech Corridor" (para 135 GNLP Part 1)

4.6.4 The identification of contingency allocation(s) is, in our view, a sensible approach subject to the suitability, availability and deliverability of any contingency site(s). The plan identifies just one contingency site at Costessey for c800 homes. Policy GNLP0581/2043 explains that the site would:

"...become an allocation if there are three consecutive years in which Annual Monitoring Reports show that housing completions in Greater Norwich are more than 15% below annual targets in each year and where under delivery is the result of site specific constraints (for example there are infrastructure or ownership constraints or significant abnormal costs have been identified) preventing the delivery of committed and allocated sites."

4.6.5 As demonstrated in paragraphs 3.16-3.18 above this site has not been adequately justified and in any event is another large-scale development which is unlikely to be capable of being delivered and built-out quickly. Policy GNLP0581/2043 explains that development of the site shall include major infrastructure improvements and mitigation, including:

- primary school
- sixth form college
- new local centre
- mitigation to address utilities infrastructure crossing the site
- off-site highway improvements on Longwater A47 junction and on New Road
- mitigation of surface water flooding
- satisfaction of Minerals safeguarding policies due to part of the site being underlain by a defined mineral safeguarding area for sand and gravel.



- 4.6.6 Given the scale of the site and its need to provide substantial on-site and off-site infrastructure improvements, delivery of homes from this site is also likely to be slow. The site is therefore in danger of not actually performing as an effective contingency to repair slow delivery elsewhere. The site requires substantial on-site and off-site infrastructure improvements. Reference to the necessary highway improvements on Longwater A47 junction alone raises clear uncertainties. Having been the long-term and retained planning representative for the principal landowner and developer at Longwater Retail and Business Park, we can attest to the Longwater A47 junction having limited opportunity for improvement to accommodate traffic additional to that already committed and the long lead in and tortuous discussions/negotiations required with Highways England and Norfolk County Council.
- 4.6.7 In addition to the lack of site-specific evidence, concerns over the genuine delivery credentials of a number of sites and the over-reliance on a small number of large allocations, the lack of any evidence to support an assumed 1,200 homes in the South Norfolk Village Clusters Housing Sites Allocation Plan provides no confidence over at least part of this 1,200 home component of housing delivery. The South Norfolk Village Clusters Housing Sites Allocation Plan is divorced from the GNLP both in its assessment and consideration of sites and in the timing of its publication and examination. This is contrary to the need to consider whether sites are deliverable or developable as defined by paragraph 67 of the Framework.

4.7 Suggested remedy to make plan effective

- 4.7.1 In view of the above concerns, we submit that:
- a) evidence should be produced to define, explain and allow proper testing of the anticipated delivery rates of all committed and allocated sites. This would be in accordance with advice contained in paragraph 72 of the Framework.
 - b) Additional allocations should be identified in order to reduce the over-reliance of the plan's supply of housing on large-scale development sites. This would be in accordance with advice contained in paragraph 68 of the Framework which confirms how small and medium sized sites can make an important contribution to meeting the housing requirement of an area.
 - c) Additional contingency sites should be identified to provide greater assurance that additional allocations could be made and delivered quickly if housing delivery in the plan area fell short of expectation. As with additional allocations referred to in b) above additional contingency sites should include small and medium sized sites sufficient to make a material impact on delivery and capable of quick delivery and build-out.
 - d) Alternatively, other contingency sites should be identified to replace the Costessey contingency site referred to in Policy GNLP0581/2043. The site is not considered to be justified and suitable for development and, in any event, is unlikely to be delivered quickly with the necessary improvements and mitigation.



Appendix 1



**PROPOSED ALLOCATIONS IN THE
GREATER NORWICH LOCAL PLAN**

LAND AT REEPHAM ROAD

ON BEHALF OF DRAYTON FARMS LIMITED AND RG CARTER FARMS LIMITED

LEGAL OPINION

Introduction

- 1 I am instructed to advise Drayton Farms Ltd and RG Carter Farms Ltd in respect of the matter concerning strategic environmental appraisal. In summary the companies have promoted two sites, located to the west (GNLP0334R) and east (GNLP0332R) of Reepham Road (the Sites) for potential allocation in the Greater Norwich Local Plan.
- 2 However, neither site has been selected as a preferred option, in the most recent iteration of the emerging Greater Norwich Local Plan (which is at the 'Regulation 19' stage of the emerging plan process).
- 3 The primary issue on which I am asked to advise relates to whether the process which has led to the selection of the preferred options is compliant with requirements of The Environmental Assessment of Plans and Programmes Regulations 2004 and The Strategic Environmental Appraisal Directive 2001.
- 4 By way of background, I am advised by the company's planning consultant, Mr Carpenter of CODE Development Planners, that the Greater Norwich Development Partnership (GNDP) has suggested the opportunity of further discussions where appropriate to facilitate the proper allocation of sites.

5 Legal Principles

Statute

6 Although the UK has now left the European Union, The Strategic Environmental Appraisal Directive 2001 (The SEA Directive) comprises "retained law" and therefore remains valid and effective at the present time.

7 Furthermore, the SEA Directive was implemented international law by the Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations). In all material respects for the purposes of this advice the provisions of the SEA Directive and the Regulations are the same. Accordingly, this opinion focuses on the provisions of the SEA regulations.

8 However, it is worth noting the clear 'objective' set out in Article 1 of the SEA Directive, which is to integrate environmental considerations into the preparation and adoption of plans.

9 In so far as is relevant, the SEA Regulations provide as follows:

9.1 Where an environmental assessment is required, the responsible authority shall prepare, or secure the preparation of, an environmental report which identifies, describes and evaluates the likely significant effects on the environment of both implementing the plan, and reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme. (Regulation 12 (1) and (2));

9.2 When a plan has been adopted, the responsible authority shall (Regulation 16) inform consultation bodies and public consultees of:

9.2.1 How environmental considerations have been integrated into the plan or programme;

9.2.2 How the environmental report has been taken into account;

9.2.3 How opinions expressed in response to consultation have been taken into account; and the reasons for choosing the plan or programme as adopted, in the light of the other reasonable alternatives dealt with.

9.3 The content of an environmental report is prescribed by Schedule 2 which states that it must contain:

- 9.3.1 Outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information (Schedule 2, paragraph 8).

Case Law

- 10 There are a number of key principles which need to be borne in mind when considering the implications of potential non-compliance with the SEA Regulations, which have been highlighted by the courts in a number of decisions since the inception of the regulations themselves.
- 11 A summary of the key principles that are particularly pertinent in the present situation is set out below:
- 11.1 "The court's role in ensuring that an authority has complied with the requirements which relate to the content of an environmental report must reflect the breadth of the discretion given to it to decide what information "may reasonably be required", taking into account current knowledge and methods of assessment, the contents and level of detail on the plan, its stage in the decision-making process and the extent to which certain matters are more appropriately assessed at other levels in that process in order to avoid duplication...The authority is left with a wide range of autonomous judgement on the adequacy of the information provided [and]...must be free to form a reasonable view of its own on the nature and amount of that information", subject to the normal principles of *Wednesbury* unreasonableness.¹
- 11.2 "In addition to the preferred plan, "reasonable alternatives" have to be identified, described and evaluated in the SEA report; because, without this, there cannot be a proper environmental evaluation of the preferred plan";²
- 11.3 "... As a result of the consultation which forms part of that process, new information may be forthcoming that might transform an option that was previously judged as meeting the objectives into one that is judged not to do so, and vice versa."³

¹ see paragraph 127 of *Flaxby Park Ltd v Harrogate Borough Council* [2020] EWHC 3204 (Admin)

² paragraph 88 i) of *R (on the application of friends of the Earth) [2016] ENV.L.R.1*

³ paragraph 88 vii) *ibid*;

- 11.4 "Although the SEA Directive is focused on the preferred plan, it makes no distinction between the assessment requirements for that plan (including all options within it) and any reasonable alternatives to that plan. The potential significant effects of that plan, and any reasonable alternatives, have to be identified, described and evaluated in a comparable way."⁴
- 11.5 "The authority has an obligation to give outline reasons for selecting (i) its preferred option over the reasonable alternatives, and (ii) the alternatives "dealt with" in the SEA process. Alternatives "dealt with" include both (i) reasonable alternatives (which must be dealt with in the SEA process) and (ii) other alternatives (which need not, but may, be dealt with in that process). The reasons that are required are merely "outline". The authority need only give the main reasons, so that consultees and other interested parties are aware of why the reasonable alternatives were chosen as such (including, in appropriate cases, why other options were *not* chosen as reasonable alternatives)-and, similarly, why the preferred option was chosen as such."
- 11.6 The decisions made as to the extent and substance of the work done to identify reasonable alternatives for environmental assessment, "are deeply enmeshed with issues of planning judgement, use of limited resources and the maintenance of a balance between the objective of putting a plan in place with reasonable speed...and the objective of gathering relevant evidence and giving careful and informed consideration to the issues to be determined. The effect of this is that the planning authority has a substantial area of discretion as to the extent of the enquiries which need to be carried out to identify the reasonable alternatives which should then be examined in greater detail."⁵
- 11.7 It is the local planning authority who, "as primary decision-makers, have been assigned to determine-of course, on a properly informed basis and on a proper construction of the relevant legal provisions-the option that best meets their objectives (i.e. the preferred option) and whether any other particular option sufficiently meets those objectives to make it viable. After due SEA directive process, it is for them to determine again on a properly informed basis (including the responses to the SEA consultation), whether the provisionally preferred option remains the option which best meets their objectives. This court is only concerned with whether those decisions are legally rational."⁶

Relevant Factual Background

⁴ paragraph 88 viii) *ibid*; also see *Heard v Broadland District Council* [2012] EWHC 344 (Admin)

⁵ see paragraph 90 of *Ashdown Forest Economic Development LLP v Secretary of State for Communities and Local Government* [2014] EW HC 406 (Admin)

⁶ see paragraph 95 of *Ashdown Forest* *ibid*.

- 12 The facts of this case are relatively unusual in the sense that the Sites were clearly accepted to be 'reasonable alternatives' and were therefore assessed as potential housing sites as part of the Sustainability Appraisal prepared in conjunction with the Regulation 18 draft of the Greater Norwich Local Plan⁷ (Regulation 18 Stage) ("the 2020 SA").
- 13 The 2020 SA concluded that: "SA assessments for housing sites demonstrated that all sites would have mixed effects with regards to sustainability. It is not possible to identify the best performing option."⁸
- 14 In respect of landscape specifically, the SA 2020 concluded: "the majority of the sites assessed would be likely to result in a minor negative impact on the local landscape."⁹
- 15 The site-specific appraisals which relate to the Sites, the preferred housing allocation (at Taverham) and the two contingency sites (at Costessey) confirm that each one 'scores' exactly the same in respect of landscape impacts i.e. they are all judged likely to have a minor impact on landscape.
- 16 However, the process undertaken by the GNDP did not stop there. As explained in the "Site Assessment Process Methodology", the following steps took place:
- 16.1 A site assessment process was undertaken to sift out the more unsuitable sites at an early stage to leave a shortlist of sites with potential for allocation that would then be subject to further assessment. This shortlist of sites was termed 'reasonable alternatives' and sent to consultants for sustainability appraisal¹⁰;

⁷ Dated January 2020

⁸ see paragraph 5.1.1 on page 73 of the 2020 SA

⁹ see para 5.1.7 on page 74 of the 2020 SA

¹⁰ para 1.7 of the GNDP, "Site Assessment Process Methodology"

- 16.2 Following the initial 'sift', "the shortlist of 'reasonable alternative 'sites was then discussed in detail with highways, development management, flood authority and children's services colleagues to come up with a list of preferred sites for allocation. Written comments were also provided by minerals and waste. Each group of colleagues undertook their own assessment of the sites and then roundtable discussion took place in the form of workshop sessions, where the merits of each site were debated and agreements sought on the preferred sites for allocation. In some cases, further discussion and negotiation was needed to ensure that all parties were happy with the sites that had been chosen"¹¹.
- 16.3 Site assessment 'booklets' were then produced: "to provide background evidence to the preferred, reasonable alternative and unreasonable sites in Part 2 of the Plan in a clear, consistent manner. The booklets tell the story to allocation and aim to present the site assessment process in a logical and transparent way...Through the site assessment process that has been put in place we have ended up with a set of preferred sites for allocation which have broad agreement from Development Management and Highways and other parties which should make for a smoother plan examination and planning application process."
- 16.4 The Sites are included in the site assessment 'booklet' for Hosford, Felthorpe and Haveringland (the Booklet). The following is noted:
- 16.4.1 At 'Stage 5' of the Booklet, the Sites are noted to be considered to be 'reasonable alternatives';
- 16.4.2 The Booklet goes on to include "Detailed Site Assessments of Reasonable Alternatives" which is referred to as 'Stage 6' of the Booklet. On pages 21 to 24, a copy of the 'detailed site assessment' of the Sites is provided. Those detailed site assessments make no reference to the 2020 SA;
- 16.4.3 A comment in the 'detailed site assessment' from "Development Management" in respect of the larger of the two Sites states (amongst other things): "The site raises potentially significant landscape issues... noise and safety concerns with airport also critical";

¹¹ para 1.8 of the GNDP, "Site Assessment Process Methodology"

16.4.4 Stage 7¹² is referred to as "Settlement Based Appraisal of Reasonable Alternative Site and Identification of Preferred Site/s (where appropriate)";

16.4.5 The Sites are both discounted in Stage 7 of the Booklet and said not to be 'reasonable alternatives'. The explanation for this decision is provided in respect of both the larger (GNLP 0332R) and smaller GNLP 0334R) of the Sites as follows:

(a) "This site was considered worthy of further investigation due to its location as an urban extension to Hellesdon. Development here would benefit from proximity to the extensive range of services and facilities in Hellesdon. However, the site raises potentially significant landscape issues given the scale of development and setting between the existing built edge and the Broadland Northway and it is therefore not considered to be reasonable for allocation. Noise and safety concerns with the airport are also critical. Surface water suds are unlikely to be allowed due to the potential to attract birds";

(b) "This site was considered worthy of further investigation due to its location as an urban extension to Hellesdon. Development here would benefit from proximity to the extensive range of services and facilities in Hellesdon. However, the site is not considered to be reasonable for allocation as it would represent a significant expansion into the countryside and would impact on the character of Reepham Road. Noise and safety concerns linked with the airport are also critical. Surface water suds are unlikely to be allowed due to the potential to attract birds. Roadside trees may impact on achieving suitable access."

17 In response to the Regulation 18 consultation process, further submissions were made in support of the Sites, in particular highlighting the absence of any evidence base for the conclusions drawn in the Booklet.

18 Furthermore, the Landscape Report, dated 12 February 2020, ("the Landscape Report") was submitted in support of the promotion of the Sites as part of that round of consultation (in March 2020). The Landscape Report demonstrates: "how a landscape-led masterplan could be delivered

¹² From page 31 onwards

in accordance with planning policy and landscape strategy parameters and recommendations as established within the accompanying Landscape Visual Assessment".

- 19 The GNDP commenced its Regulation 19 consultation process on 1 February 2021, alongside which an updated SA/SEA was published, dated January 2021 (the 2021 SA)¹³.
- 20 The following points should be noted from the 2021 SA:
 - 20.1 The Sites continue to be treated as 'reasonable alternatives' and the findings of the 2020 SA in this respect are not superseded;
 - 20.2 Appendix G provides reasons as to why the Sites were not selected as allocations and states the sites are: "not considered to be suitable for allocation as development in this location would increase the urban sprawl of Hellesdon further into the open countryside with subsequent landscape impacts. There are noise and safety concerns regarding proximity to the airport and the location of the site under the flight path. Significant highways improvements would also be necessary"¹⁴. No reference is made to the technical evidence submitted in support of the Sites in June 2020
 - 20.3 Chapter E.3 sets out a 'post-mitigation' assessment of all of the reasonable alternative sites, in the form of a matrix. The following points arise:
 - 20.3.1 It is not easy to follow the basis for the assessment process, as the rationale for the scores is not provided;
 - 20.3.2 The Sites score either the same or better (in respect of criterion 6) to the Costessey contingency sites;
 - 20.3.3 The Sites score better on criterion 6 compared with the Taverham sites (0337 and 0337R); however the Taverham site (0337R) scores better than the Sites in respect of criteria 10 and 11. It is difficult to understand the scoring on criteria 10 and 11, as the basis for the more favourable score to 0337R is not explained (the scores were equal 'pre-mitigation').

Opinion

- 21 In my opinion, there are a number of serious errors in process undertaken by the GNDP thus far.

¹³ There appears to have been a draft of the same document first made available in December 2020, but there appear to be no material differences between the draft and the version published for consultation.

¹⁴ The wording for both Sites is identical; see page G32 of Appendix G to the 2021 SA.

- 22 The heart of the issue in the present case is that the evidence demonstrates the SA process has not been taken into account and/or utilised as the basis for the selection of 'preferred options'.
- 23 Instead, the GNDP undertook a separate 'assessment' of alternatives (all of which were accepted to be 'reasonable alternatives' within the 2020 SA and 2021 SA) and used this separate 'assessment' as the basis for selecting its preferred options. This holds true notwithstanding the production and publication of the 2021 SA, as the evidence demonstrates the GNDP selected the 'preferred' allocations before this further assessment work was carried out.
- 24 The 'evidence base' for this separate 'assessment' is found only within the Booklets and appears to rely not on any objective methodology for assessing sites, but instead rests upon 'negotiations' and 'discussions' (based on the subjective views of officers, for which no evidential basis is provided) which the public, statutory consultees and/or other stakeholders have not been privy to. This in itself is a clear breach of the SEA Regulations, which require the assessment process to be evidence based, objective and transparent.
- 25 Indeed, the Booklets do not even refer to the outcomes of the 2020 SA¹⁵ and in respect of the Sites, adopts conclusions which are directly contrary to it. By way of example, the Booklets conclude the Sites would result in significant adverse landscape impacts when the 2020 SA clearly assesses this as a minor impact. Furthermore, the 2020 SA concludes that, "The majority of the sites assessed would be likely to result in a minor negative impact on the local landscape". In this context there is no reasonable basis on which the Sites could reasonably have been discounted on the basis of landscape impacts.
- 26 This clear error is compounded by the 2021 SA, which fails to provide any transparent methodology for the 'post mitigation' assessment process and 'scores' attributed to various sites.
- 27 Indeed, given that the Costessey contingency sites actually perform worse than the Sites in the 'post mitigation' matrix, and in the absence of any other credible evidence base which explains and/or justifies their selection, the 2021 SA fails to provide even outline reasons for selecting the preferred option *over* the reasonable alternatives. This is a breach of the SEA Regulations and is in direct conflict with the principles set out by the Court in *Heard*.

¹⁵ Where the substantive assessment of the Sites 'pre-mitigation' was undertaken

- 28 The Booklets adopt an entirely different 'methodology' to that taken in the 2020 SA and 2021 SA, having regard to issues such as whether a particular site would be capable of providing SUDs and/or the proximity of a site to the airport from a safety perspective.¹⁶ It would appear that the reasons provided in the 2021 SA, as to why the Sites have not been selected, have fallen into the same trap. Furthermore, the reference to landscape impacts, highways impacts and/or noise and safety impacts due to proximity to the airport are entirely unsupported by the assessment in the 2020 SA¹⁷. Quite simply, there is no evidence base which supports the explanation provided in the 2021 SA as to why the Sites were not 'preferred'.
- 29 The consequence of these points is that it is extremely difficult to understand the evidence base on which the selection of the 'preferred' sites rests; the facts strongly suggest that this is because there is no objection evidence base underpinning the selection, which rests entirely on the 'assessment' in the Booklets.
- 30 SEA must 'identify, describe and evaluate' the reasonable alternatives. It is axiomatic that a local planning authority must undertake this process utilising a transparent and evidence based approach, which uses a consistent methodology to assess the environmental impacts of the reasonable alternatives.
- 31 The approach taken in the Booklets does not represent either a transparent, objective or evidence based approach. It would appear, from the information available, that the GNDP has failed to properly comply with its legal obligation to assess the reasonable alternatives on a comparative basis, having regard to a transparent and objection evidence base, as is required by the SEA Regulations.
- 32 In addition, the 2021 SA appears to have no regard whatsoever to the outcome of consultation in the sense that neither the Landscape Report nor the Landscape Impact Assessment, which has been submitted in support of the Sites, have been taken into account or responded to. This is a clear breach of the SEA Regulations¹⁸.
- 33 It could not be clearer that preferred allocations were selected based on the 'assessment' contained within the Booklets, not the SA¹⁹. It is plainly unlawful for the Booklets to be used as the basis for selecting preferred options and it follows that, at this stage, the procedure required by the SEA Regulations has not been complied with. Any decisions which rest upon that flawed procedural approach therefore are not lawfully compliant and may be challenged.

¹⁶ Noise impacts were assessed in the 2020 SA

¹⁷ See B213 to B223

¹⁸ See Regulation 16 of the SEA Regulations

¹⁹ Whether that be the 2020 SA or the 2021 SA

- 34 The errors are not remedied by the 2021 SA, but in fact are compounded by it. The approach to post mitigation assessment of the sites is opaque and appears not to rest on any objective evidence case. The reasons for not selecting the Sites as preferred allocations are in direct conflict with the substantive assessment of the Sites carried out in the 2020 SA and/or have regard to issues which form no part of the adopted methodology.
- 35 It would of course be possible for an error in the SEA process to be corrected by the GNDP at a later stage. Accordingly, the GNDP has the opportunity to correct the errors in their assessment process thus far, properly assess the Sites on a comparable and objective evidence base and conclude that they should in fact be preferred as allocations.

Conclusion

- 36 In my opinion, a number of serious legal errors have occurred in the procedure undertaken by the GNDP which infects its selection of its 'preferred' sites for allocation in the emerging Greater Norwich Local Plan.
- 37 Should this error not be corrected as part of the ongoing process to develop and eventually adopt the Greater Norwich Local Plan, this will likely form the basis of a robust challenge to the lawfulness of the same.
- 38 I trust that this Opinion deals with all of the issues on which I am currently instructed to advise. However, should anything further be required, please do not hesitate to contact me.

Alison Ogley

Partner

WALKER MORRIS LLP

9 February 2021



Appendix 2



Key	
Large sites over 500 units	
Medium plus sites 300-500	
Medium sites 100-300	
Small sites under 100	

Strategic Growth Area (in and around Norwich and Cambridge Norwich Tech Corridor)
Preliminary assessment of site sizes, location and possible delivery issues (subject to receipt from GNDP of site specific evidence)

Policy Number	Site location	Number of dwellings	Carried forward/allocation/contingency	Noted delivery issues where known
GMLP0360/3053/R10	East Norwich Strategic Regeneration Area	4000	Strategic allocation	Complex constraints including separate landownerships, utilities, river and rail crossings, flood risk, viability. Note planning permission granted on part site for 680 dwellings in 2013 but never commenced.
GT12	North Sprowston and Old Catton	3520	GTAA allocation for completion of committed development	Part of the 13022 dwellings in BGT
GT16	North Rackheath	3000	GTAA allocation	Part of the 13022 dwellings in BGT
POLICY GMLP0307/GMLP0327	Land north of the A11, Cringleford	1710	Carried forward	
POLICY GMLP0337R	Land between Fir Covert Road and Reepham Road, Taverham	1400	Allocation	
GT7	Land south of Salhouse Road	1400	GTAA allocation	Part of the 13022 dwellings in BGT
POLICY HET 1 (part of GMLP0177A)	Land north of Hetherset	1369	Carried forward	Planning permission for 1,196 dwellings already commenced. Unknown response from developer to increase site capacity by 173 dwellings.
POLICY GMLP0132	Land off Blue Boar Lane/Salhouse Road, White House Farm, Sprowston	1200	Allocation	Part of the 13022 dwellings in BGT
POLICY EAS 1	Land south and east of Easton	1044	Carried forward	Allocated in previous South Norfolk Local Plan 2015. Part with outline planning permission but not commenced. Constraints include separate ownerships and required A47 Longwater junction improvement.
POLICY HEL2	Land at the Royal Norwich Golf Club, either side of Drayton High Road, Hellesdon	1000	Carried forward	Development commenced but understand given site constraints unlikely to deliver 1000 dwellings.
POLICY R38	Three Score, Bowthorpe	900	Carried forward	Unknown
GT11	Land east of Broadland Business park	850	GTAA allocation	Part of the 13022 dwellings in BGT
GMLP0506	Land at and adjoining Anglia Square	800	Allocation	Application for comprehensive development of site dismissed following call-in by Secretary of State. Progress unclear but viability questions.
GMLP0581/2043	Costessey	800	contingency	Would require extensive on-site infrastructure provision and off-site infrastructure improvement including A47 Longwater junction improvements.
GT6	Brook Farm	600	GTAA allocation for completion of committed development	Part of the 13022 dwellings in BGT
GT20	White House Farm	460	GTAA allocation	Part of the 13022 dwellings in BGT
GT15	Land north of Repton Avenue	340	GTAA allocation	Part of the 13022 dwellings in BGT
POLICY HEL1	Land at Hospital Grounds, southwest of Drayton Road, Hellesdon	300	Carried forward	Allocated in previous Broadland Local Plan 2015. Landowner not previously released site.
GT21	Land east of Broadland Business Park (North site)	300	GTAA allocation	Part of the 13022 dwellings in BGT
GT18	Land south of Green Lane west	300	GTAA allocation	Part of the 13022 dwellings in BGT
Policy CC16	Norwich City Football Club north and east of Geoffrey Watling Way	270	Carried forward	Unknown
POLICY DRA1	Land east of Cator Road and north of Hall Lane, Drayton	250	Carried forward	No known constraints
GT13	Norwich RFU	250	GTAA allocation	Part of the 13022 dwellings in BGT
GT14	Land east of Buxton Road	225	GTAA allocation completion of committed development	Part of the 13022 dwellings in BGT
GMLP0409AR	Land at Whitefriars	220	Allocation	Landowner objected to allocation.
POLICY GMLP0172	Land to the west of Green Lane West, Rackheath	205	Allocation	Part of the 13022 dwellings in BGT
GMLP0409BR	Land south of Barrack Street	200	Allocation	Under construction
Policy CC4b	Land Mountergate/Prince of Wales Road	200	Carried forward	student accommodation, high quality office space, hotel and tourism uses

POLICY TROW 1	Land on White Horse Lane and to the rear of Charolais Close & Devon Way	181	Carried forward	Unknown
POLICY R36	Mile Cross Depot	170	Carried forward	Unknown
GNLP3054	St Mary's Works and St Mary's House	150	Allocation	Unknown
POLICY CC15	Norwich Mail Centre, 13-17 Thorpe Road	150	Carried forward	Unknown
GT19	Land south of Green Lane east	150	GTAA allocation	Part of the 13022 dwellings in BGT
GNLP2114	Land at and adjoining St Georges Works, Muspole Street	110	Allocation	Unknown
GNLP0401	Former Eastern Electricity Headquarters, (Duke's Wharf) Duke Street	100	Allocation	Unknown. Note previous consent 14/01104 granted in 2014 believed to have expired. Site been vacant for many years.
POLICY CC10	Garden Street and Rouen Road	100	Carried forward	Unknown
POLICY R14/R15	Land at Ketts Hill and east of Bishop Bridge Road	80	Carried forward	Unknown
POLICY R37	The Norwich Community Hospital site, Bowthorpe Road	80	Carried forward	Unknown
GT17	Land adjacent to Salhouse Road	79	GTAA allocation completion of committed development	Part of the 13022 dwellings in BGT
POLICY R31	Heigham Water Treatment Works, Waterworks Road	60	Carried forward	Unknown
POLICY GNLP3013	Land North of Tuttle Lane, Wymondham	50	New allocation	Unknown
POLICY R7	John Youngs Limited, 24 City Road	45	Carried forward	Unknown
GT8	Land north of Plumstead Road	45	GTAA allocation	Part of the 13022 dwellings in BGT
GNLP0451	Land adjoining Sentinel House	40	Allocation	Unknown
POLICY R18	Site of former Start Rite Factory, 28 Mousehold Lane	40	Carried forward	Unknown
Austin Green, Old Catton	Austin Green	40		Part of the 13022 dwellings in BGT
POLICY R29	Two sites at Hurricane Way, Airport Industrial Estate	30	Carried forward	Unknown
POLICY CC18 (CC19)	Land at 140-154 Oak Street and 70-72 Sussex Street	27	Carried forward	Unknown
GNLP2163	Friars Quay Car Park, Colegate	25	Allocation	Unknown
POLICY R17	former Van Dal Shoes	25	Carried forward	Unknown
POLICY R20	Land east of Starling Road	23	Carried forward	Unknown
GNLP2164	Land west of Eastgate House, Thorpe Road	20	Allocation	Unknown
POLICY CC2	147 – 153 Ber Street, Norwich	20	Carried forward	Unknown
POLICY CC7	Hobrough Lane, King Street	20	Carried forward	Unknown
POLICY CC8	King Street Stores	20	Carried forward	Unknown
POLICY CC24	Land to rear of City Hall	20	Carried forward	Unknown
POLICY R19	Land north of Windmill Road	17	Carried forward	Unknown
POLICY CC11	Argyle Street	15	Carried forward	Unknown
POLICY R2	Ipswich Road Community Hub, 120 Ipswich Road	15	Carried forward	Unknown
POLICY R13	Site of former Gas Holder at Gas Hill	15	Carried forward	Unknown
POLICY GNLP0351	Land at Heathwood Gospel Hall, Green Lane West, Rackheath	15	Allocation	Part of the 13022 dwellings in BGT
Trinity Close Phase 2	Trinisty Close	14		Part of the 13022 dwellings in BGT
GNLP0282	Land at Constitution Motors, 140-142 Constitution Hill	12	Allocation	Unknown
Trinity Close Phase 1	Trinity Close	12		Part of the 13022 dwellings in BGT
POLICY CC3	10 – 14 Ber Street, Norwich	10	Carried forward	Unknown
POLICY R33	Earl of Leicester Public House, 238 Dereham Road	10	Carried forward	Unknown
Home Farm phase 5	Home Farm	9	2008 uplift	Part of the 13022 dwellings in BGT
Home Farm phase 4	Home Farm	8	2008 uplift	Part of the 13022 dwellings in BGT
Summary of site size reliance in strategic growth area				
Total in strategic growth area	Large sites	23593	Percentage of total	80.89
	Medium plus	1700	Percentage of total	5.83
	Medium	2931	Percentage of total	10.05
	Small	941	Percentage of total	3.23
	Total	29165	Total	100
Broadland Growth Triangle	Large sites	10570	Percentage of total	81.17
	Medium plus	1400	Percentage of total	10.75
	Medium	830	Percentage of total	6.37
	Small	222	Percentage of total	1.70
	Total	13022	Total	100
Strategic growth area (without BGT))	Large sites	13023	Percentage of total	80.67
	Medium plus	300	Percentage of total	1.86
	Medium	2101	Percentage of total	13.01
	Small	719	Percentage of total	4.45
	Total	16143	Total	100



CODE Development Planners Ltd

17 Rosemary House
Lanwades Business Park
Kentford CB8 7PN

T: 01223 290138

E: info@codedp.co.uk

W: www.codedp.co.uk
