

Tuesday 7th July 2015 - 10.00

Issue 1: The Duty to Co-operate, Legal Requirements and the Council's Broad Strategy

Questions/response

1.1

It is considered that there has been a failure in the duty to co-operate between the Council and Fenland District Council ("FDC"). The Strategic Flood Risk Assessment for the area confirms that the growth of Wisbech (a major centre) is significantly constrained by the (Flood Zone 3) areas to the north, west and south of the town at high risk of flooding.

The site at Elm High Road Wisbech is being promoted for up to 300 dwellings. The site has not been allocated in the draft submission Local Plan. In terms of the Local Plan and the Public Examination, the site is an "omission site".

The Council's preferred option for the growth of Wisbech is for a site adjoining the eastern (Fenland) urban extension for 550 dwellings.

Sites to the north, west and south of Wisbech have been allocated by FDC within Flood Zone 3, therefore at high risk of flooding (there are also Hazard Zone considerations) these sites are not viable or deliverable.

It is, therefore, submitted that the Council and Fenland District Council should consider the "strategic" issues that arise, because of the flood risk constraints.

The point simply made is that there are opportunities to promote sustainable development on land outside the flood plain (Elm High Road). The Elm High Road is sequentially preferable, and so the present allocation fails to meet the tests set out in the NPPF at paras 100-101.

There has, therefore, clearly been a failure in the (outcome) of the Duty to Co-operate and the sequential test contained within the Framework.

1.4

The emerging Plan does not allocate the site at Elm High Road Wisbech, which is considered contrary to the principle of sustainable development and that the Plan is not compliant with the Framework sequential test

It is considered that the Plan is unsound in that it does not address the Full Objectively Assessed Need ("FOAN") for housing both open market and affordable in the district. The Pegasus Report (June 2015) attached to these further submissions confirms the FOAN for the district, along with an appeal decision in respect of Fosters Sports Grounds APP/V2635/A/14/2219315. That decision makes clear that the housing need is way in excess of what was planned for in the Core Strategy.

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*Our ref: RB/WLW/Elm High Road
and Downham Market SE*

Your ref:

Planning Inspector
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PE30 1EX

22nd June 2015

Dear Sirs

Borough Council of Kings Lynn and West Norfolk Site Allocations and Development Management Policies

Richard Brown Planning Limited, act for Elmside Limited and Koto Limited, the owners of land respectively at Elm High Road Wisbech and to the south east of Downham Market, and will be attending the Hearing sessions in relation to the examination of the SADMP commencing on the 7th July 2015.

Both sites have been the subject of previous representations made on behalf of the land owners, in particular, in February earlier this year.

The sites have been identified in previous representations and are both referenced in the Council's Sustainability Appraisal (hereinafter referred to as the "SA").

Elm High Road Wisbech is referred to on pages 398 and 401 of the SA and is numbered 627, 436 and 381.

The land to the south east of Downham Market is referenced on page 130 of the SA and is numbered 480 where part of the site is allocated (F1.4) and part not.

Both sites are considered available, developable and deliverable.

This is further emphasised by the land owners submitting planning applications for residential development to accord with paragraphs 47 and 14 of the National Planning Policy Framework.

Cont...2

The planning application made with regard to Elm High Road Wisbech is for up to 120 dwellings, the drawings and the technical reports supporting the planning application can be viewed online, planning reference number 14/01714/OM.

Significantly with regard to this planning application there are **no objections** from either Norfolk County Council (the Highway Authority) nor the then described Highways Agency.

Copies of the consultation responses from Norfolk County Council and the Highways Agency are provided for the Inspector, which will clearly require the Council to reassess the conclusions of their SA with regard to Elm High Road.

The SADMP is not sound as the site has not been allocated in the emerging Plan.

The site is, therefore, an “omission site”.

The planning application made with regard to the land to the south east of Downham Market relates to the site identified as F1.4, planning reference number 15/00135/OM.

The Inspector will be aware from the previous submissions in February this year that the Council propose to allocate *part* of the south east sector, contrary to the Core Strategy Inspector’s Report recommendations – that the growth of the town should be to the east (south east), ie. the land being promoted by Koto Limited.

There are considerable concerns with regard to the soundness of the SADMP in particular

- (1) The failure of the duty to cooperate
- (2) The failure to address the FOAN for the District and the 5 year land supply
- (3) The failure of the Council to apply the flood risk sequential test
- (4) The obvious deficiencies in the Council’s SA in drawing the conclusion(s) that access/highways “issues” should preclude the allocation of the Elm High Road Wisbech site. The land owners’ submitted (February) Sustainability Appraisal also highlighted significant concerns with regard to the Council’s methodology in preparing their SA (paragraphs 47 and 48 of the Turley Report 19th February 2015 refers).

With further reference to the above, I enclose:

1. Issues and Questions – Supplementary Information
2. Fosters Sports Ground Main Road Clenchwarton appeal decision 2219315
3. Pegasus Group Report (June 2015) on the Full Objective Assessment of Housing Need and the Housing Land Supply Position within Kings Lynn District

Cont...3

4. At the Hearing sessions the Inspector will be referred to pages 32-39 of the Fenland Local Plan adopted in May 2014 and, in particular:

Page 40 identifies the strategic allocation of 900 houses on the eastern edge of Wisbech

Policy LP7 – Urban Extensions (criteria (a) – (v))

Policy LP7 is a general policy relating to urban extensions, which confirms at paragraph 3 that there are delivery “issues”

*“..... if one or more land owners are not supportive of the broad concept plan, then it will need to be demonstrated that a broad concept plan **can still be delivered** for the considerable majority of the urban extension without their involvement”*

Policy LP8 – Wisbech

It is confirmed in the policy that the proposed accesses to serve the development

“Must ensure that there is no unacceptably net adverse impact on the local and strategic highway network and on existing residential amenity. This will require a significant upgrade to the junction of the A47 with Broad End Road probably in the form of a new roundabout, with the arrangements for delivering such upgrade being agreed as part of the broad concept plan for the allocation”

5. BMD Design and Access Statement November 2014 (landscape buffer considerations)
6. Norfolk County Council consultation response 12th February 2015 (**no objection**)
7. Highways England consultation response 24th April 2015 (**no objection**)
8. Legal Opinion of Thea Osmund-Smith

If you would kindly acknowledge safe receipt.

Yours faithfully

Richard Brown MSc

Encs

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KING'S LYNN AND WEST NORFOLK BOROUGH COUNCIL

FULL, OBJECTIVE ASSESSMENT OF HOUSING NEED AND THE HOUSING LAND SUPPLY POSITION

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1. INTRODUCTION

- 1.1 This report sets out the latest housing land supply position in King's Lynn and West Norfolk Borough Council based on the full, objectively assessed need (FOAN) for the Borough.
- 1.2 In respect of national guidance the NPPF sets out information in respect of the calculation of housing requirements and also sets out the need to boost significantly the supply of housing and ensure that the FOAN for market and affordable housing are met in the area. In considering the supply of land sites have to be deliverable and developable. Specific deliverable sites have to be shown for 5 years together with developable sites for a further 5 years and where possible for years 11 to 15. In addition a buffer of 5% needs to be provided, or a buffer of 20% where there has been a record of persistent under delivery of housing.
- 1.3 Where a Local Authority cannot demonstrate an up to date 5 year supply of deliverable sites then paragraph 49 states that relevant policies for the supply of housing should not be considered to be up to date and in those circumstances paragraph 14 states that permission should be granted unless there is a specific reason which restricts development.
- 1.4 The Local Authority conclude in their latest HELAA 2014 that they have a 8.1 years supply using the Liverpool method, and a 7.5 years supply using the Sedgefield method and 5% buffer based on the Core Strategy. However in the Clenchwarton appeal decision, dated January 2015 (APP/V2635/A/14/2219315), the Inspector did not agree with the Local Authority's position and instead found there to be only a 1.91 years supply of housing land (**Appendix 1**).
- 1.5 In light of these recent findings by the Clenchwarton Inspector, and given that there still remains a deficit in housing land supply in the Borough as set out in this report, the presumption in favour of granting permission set out in paragraph 14 of the NPPF, therefore, is engaged.

2. PLANNING POLICY CONTEXT

- 2.1 The **East of England RS** has now been revoked; however the figures in the RS draft revision remain relevant as a starting point through paragraph 218 of the NPPF. The Development Plan for King's Lynn and West Norfolk therefore currently consists of the adopted Core Strategy and also of relevance is the evidence as part of the emerging Site Allocations and Development Management Policies Document. This plan is now of no weight.
- 2.2 The **East of England Plan > 2031 Draft Revision** document was issued as a more up to date document to deal with a need to increase housing provision published in March 2010. The proposed changes in the RS in themselves are of no weight but the background information is still relevant as paragraph 218 of the NPPF allows evidence that informed the preparation of the RS to be used. The figure in the draft revision remains the most recent tested figure but given it is now of no weight housing supply needs to take account of the policy set out in the NPPF and the most up to date information that is available. The proposed changes document sets out an overall dwelling requirement for King's Lynn and West Norfolk of 13,100 between 2011 and 2031, an average annual requirement of 660 per year.
- 2.3 The **King's Lynn and West Norfolk Core Strategy** is the most recent development plan document, adopted in July 2011. The Core Strategy is not a document which allocates sites, this process is being done through the separate Site Specific Allocations and Policies document. The Core Strategy was published in July 2011. Paragraphs 213 to 215 of the NPPF note that a review of the Core Strategy should be undertaken 12 months from the NPPF publication to ensure its policies are consistent with the NPPF. This has not been done. In respect of housing requirement the Core Strategy continues the RS annual requirement and sets out the provision of 16,500 dwellings between 2001 to 2026 (660 per year). Whilst this is the most recent adopted figure, it is not the most up to date information available in respect of housing land provision.
- 2.4 The **King's Lynn and West Norfolk Borough Council – SHMA Update 2014** considers the requirement for the Borough to be 10,336 new households for the 15 year period between 2013 and 2028, equating to almost 690 new households per annum.

2.5 The **Hunston Properties vs. Secretary of State [2013] EWHC 2678** High Court Judgment, dated 5th September 2013 in summary states that in the absence of an up to date or adopted Local Plan, the NPPF requires the decision maker to assess housing need and identify the unfulfilled need having regard to the supply of specific deliverable sites. The consideration of need requires, under paragraph 47 of the NPPF, the need to boost significantly the supply of housing. Under the first bullet point this cannot be a needs figure that expressly does not and does not purport to identify actual need. A constraint adjusted figure does not meet need and is not consistent with paragraph 47. Once the full, objectively assessed figure is identified the decision maker must then consider the impact of other policies in the NPPF.

2.6 The **Gallagher Homes Limited and Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283** High Court Judgment related to the Local Authority adopting a plan that was not supported by a figure for full, objectively assessed housing need. In paragraph 88, the Judge further confirms following Hunston it is clear that concerning decision taking:

"although the first bullet point of paragraph 47 directly concerns plan making, it is implicit that a local planning authority must ensure that it meets the full and objectively assessed needs for market and affordable housing in the housing market, as far as consistent with the policies set out in the NPPF, even when considering development control decisions"

And

"where there is no Local Plan, then the housing requirement for a local authority for the purpose of paragraph 47 is the full, objectively assessed need".

2.7 In respect of these Judgments, this means an adoption of the East of England Plan Draft Revision figures in respect of the housing requirement should not be used because they were dependant on policy at that time. The 2012 based household projections (SNHP) form the most recent figures reflective of actual unconstrained housing needs and in accordance with the Hunston Judgment are the ones to be utilised as they are a starting point for determining the FOAN in the Borough. In line with the most recent evidence available it is recommended that the housing requirement should be reviewed to cover the period 2011 to 2031, as the Core Strategy is now considered to be out of date.

2.8 This position was confirmed by the Inspector at the Clenchwarton appeal (APP/V2635/A/14/2219315) in January 2015 (**Appendix 1**), where in his decision he determined that the Core Strategy requirement is based on what are now old household projections and notes that the NPPF makes reference to keeping plans up to date and under review. This is in agreement with the Inspector at the previous Clenchwarton appeal (APP/V2635/A/12/2175128), dated November 2012, who identified that the Local Authority will need to re-visit its housing provision in light of more recent household projections, and will need to keep its housing supply in line with the evidence base in the future.

The NPPF

2.9 The NPPF in paragraph 14 sets out that where relevant policies of a plan are out of date, which is the situation in respect of the housing policies derived from the RS, permission should be granted. Paragraph 49 also sets out that relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot demonstrate a 5 year supply of deliverable housing sites.

2.10 The NPPF (paragraph 17) is also clear that every effort should be made objectively to identify and then meet the housing needs of an area. Paragraph 47 sets out the importance of ensuring that the Local Plan meets the full objectively assessed needs for market and affordable housing in the area. Paragraph 50 sets out the need to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. Also in respect of Local Plan preparation, paragraph 158 requires authorities to ensure that the Local Plan is based on adequate, up to date and relevant evidence. They are also to assess their full housing needs working with neighbouring authorities where housing market areas cross administrative boundaries.

2.11 The scale and mix of housing should meet household and population projections, taking account of migration and demographic change, address the need for all types of housing including affordable housing and the needs of different groups in the community and cater for the housing demand and scale of housing supply necessary to meet this demand.

Planning Practice Guidance

2.12 The Planning Practice Guidance became operative on the 6th March 2014. It is not policy, but seeks to explain further elements set out in the NPPF. In respect of determining the FOAN it makes the following points amongst others:

Housing and economic development needs assessments

- Household projections provide the starting point of overall housing need (ID 2a-015)
- They may require adjustment, for example to reflect previously suppressed household formation rates due to undersupply and worsening affordability. Assessments should therefore reflect the consequences of past under delivery of housing. Importantly, the projections do not reflect unmet housing need and a view should be taken on the extent to which household formation rates are or have been constrained by supply (ID 2a-015)
- It is relevant to take account of labour force supply relative to projected job growth in assessing housing need (ID 2a-018)
- The housing need number suggested by household projections should be adjusted to reflect market signals and other indicators of the balance between supply and demand, and worsening trends will require upward adjustment (ID 2a-019 & 020)

Housing and economic land availability assessment

2.13 The PPG adds further to the policy set out in Paragraph 47 of the NPPF concerning the importance of demonstrating a 5 year supply of housing, indicating it is a key material consideration when determining housing applications and appeals (ID-3033). The PPG goes on to reiterate the definitions of deliverability set out in Footnote 11 of the NPPF, but adds that local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgments on deliverability are clearly and transparently set out (ID 3-031).

2.14 Furthermore the PPG at paragraph ID-035 states that Local Planning Authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible.

3. FULL OBJECTIVE ASSESSMENT OF HOUSING NEED (FOAN) AND 5 YEAR HOUSING REQUIREMENT

- 3.1 Firstly, it is important to consider the findings of the Inspector at the Clenchwarton appeal (APP/V2635/A/14/2219315) (**Appendix 1**) on what the FOAN is for the Borough based on the evidence that was put before him. Paragraph 7 of his decision letter states:

"Indeed, the SHMA evidence explains that there would be a requirement of 690 households per annum. Households do not equate to dwellings and allowance should be made for vacancies and second homes. The 2011 census records that King's Lynn has 14.9% vacancies and second homes, which would give a full objectively assessed need (FOAN) of 793 dwellings a year. If, as a minimum, only vacancies are considered, it is generally recognised that a figure of 3% be used giving a requirement of 711 dwellings per annum. A minimum of 51 additional dwellings a year, and possibly as many as 133, over and above the Core Strategy requirement of 660 does not suggest that the Core Strategy requirement is still realistic. Indeed, over a 15 year period that equates to a minimum need for in excess of 750 additional dwellings".

- 3.2 In light of the findings of the Clenchwarton Inspector (January 2015) it is found that the Core Strategy requirement clearly does not meet the current FOAN for the Borough. The figure of 793 dwellings a year excludes an allowance for unmet need. When an unmet need allowance was made the requirement increases to 872 dwellings per annum which was put forward in evidence at the appeal to which the Inspector agreed should be the correct figure to use.
- 3.3 In light of the above, the requirement in the Core Strategy cannot be considered up-to-date. However, since the Inspectors findings the latest set of household projections, the 2012-based household projections (SNHP), have been published. This report considers the implications of these projections upon the FOAN and the 5 year housing requirement.

NPPF policy regarding housing supply

- 3.4 The King's Lynn and West Norfolk Core Strategy adopted July 2011, is based on old projections. Therefore with the East of England RS now revoked, or if the relevant policies are out of date, there are no relevant up to date housing figures

in the development plan. The NPPF requires Local Authorities to make full provision for housing requirements, so there is still a need to determine up to date full housing land requirements, particularly in order to ensure that a 5 year supply of housing is being provided in accordance with policy (NPPF paragraph 47). If this is not done then house building will not be boosted significantly in accordance with the NPPF and the Core Principle of every effort being made to objectively identify and then meet the housing needs of an area, set out in Paragraph 17, will not be met.

- 3.5 There is a need, therefore in these circumstances to look elsewhere for information to determine the correct figure. The policy advice relating to the determination of local housing provision is contained in particular in Paragraphs 50 and 159 which sets out that in determining local housing provision a number of aspects should be taken into account.

Evidence of current and future demographic trends and market trends

- 3.6 Firstly, in order to assess full housing needs, there is a need to take into account evidence of current and future demographic trends, market trends and needs of different groups in the community. Paragraph 159 explains that this means:
- Meeting household and population projections, taking account of migration and demographic change.
 - Addressing the need for all types of housing including affordable housing and the needs of different groups in the community.
 - Catering for housing demand and the scale of housing to meet this demand.
- 3.7 This work entails the provision of a Strategic Housing Market Assessment (SHMA) and a Strategic Housing Land Availability Assessment (SHLAA) – the SHLAA making realistic assumptions about availability, suitability and economic viability of land to meet the identified need.
- 3.8 As already noted in Section 2, the latest SHMA is the SHMA update 2014 published for King's Lynn and West Norfolk Borough which identifies a requirement of 10,336 new households required in the 15 year period between 2013 and 2028, equating to almost 690 new homes per annum.

- 3.9 The updated SHMA 2014 has considered adjusted projections in order to derive a figure for identifying the FOAN. There is concern that the approach taken does not accurately reflect future circumstances in that migration levels, the main driver of population change, are based on 2008 based population projections levels, which have been scaled down by 15% as it is assumed that past migration levels will not be continued into the future. This is further justified on the basis that the reduction in migration is comparable to 2011 based population projections levels.
- 3.10 A reduction of 15% is an arbitrary figure. Secondly, as noted within the SHMA update, the 2011 based population projections are influenced by the recession and during recession periods less migration takes place due to lack of available finance, lower levels of house building, restricted employment market etc. Therefore, it could well be the case that migration increases to earlier levels.
- 3.11 It is considered a more robust approach would be to test average migration levels that have occurred over a longer term, such as 10 years. A long term analysis of migration over the past 10 years, when economic conditions were much improved, sees a much higher number of net migration and this should be planned for when going forward, which would result in a housing target of 660 per annum being inadequate to meet the arising needs of the Borough.

Table 1: Historic net migration in King's Lynn and West Norfolk Borough

	Total Net Migration
2012/13	752
2011/12	616
2010/11	572
2009/10	700
2008/09	801
2007/08	1,325
2006/07	1,470
2005/06	1,426
2004/05	1,331
2003/04	1,415
2002/03	1,558

Source: Office for National Statistics

- 3.12 The SHMA validates that the total growth indicated by the projections is consistent with projections based on Oxford Econometrics economic led scenarios. Detailed information in relation to this scenario, however, is not provided within the SHMA update. It would be helpful if the level of job growth was explicit within the SHMA update so that this could be compared with economic ambitions of the Local

Authority. In addition, it is recommended that a range of economic projections are sought from a number of forecasts and tested in order to identify different economic outcomes based on different yet robust methodologies.

- 3.13 Finally, the FOAN identified by the SHMA update is 690 households per annum. The SHMA concludes that this is in line with the Core Strategy housing requirement of 660 dwellings per annum. The SHMA update draws a comparison of households with dwellings. These are very different. Households can be converted to dwellings by including an allowance for existing unmet need (homeless, concealed and shared households), vacancies and second homes. This was a point identified by the Clenchwarton Inspector (January 2015).
- 3.14 When examining existing levels of vacancies in the stock, the 2011 Census identified that 14.9% of all dwellings had no usual residents. One explanation for this is that there are a high proportion of second homes. When adding 14.9% to the demographic projection of 690 households per annum a total of 793 dwellings per annum is arrived at and this is without an allowance for unmet need. The Clenchwarton Inspector (January 2015) also considered a figure based only on vacancies at 3% which gave a minimum requirement of 711 dwellings per annum. It is clear, therefore, that based on the Local Authority's own projections; there is a significant discrepancy between the actual FOAN and the requirement in the adopted Core Strategy.
- 3.15 The most recent Pegasus assessment of the FOAN in the Borough, based on the most up to date evidence, which now includes the 2012 SNHP, finds that the Local Authority needs to deliver an annual requirement of 717 dwellings per annum. The detail of this assessment is set out below.

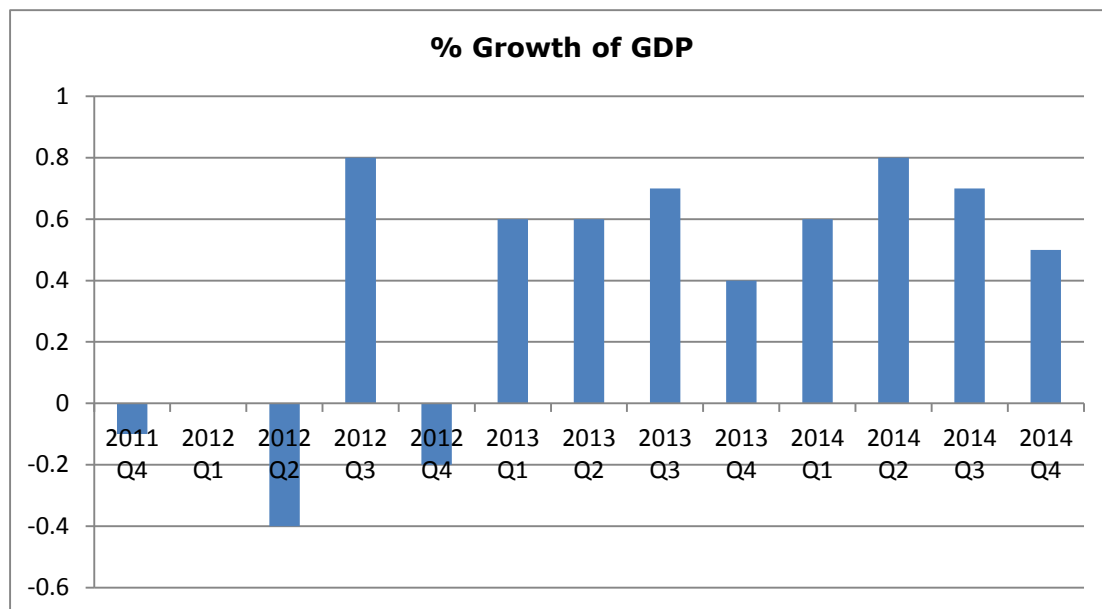
2012-Based Subnational Household Projections

- 3.16 The official projections, referred to as the starting point in the PPG, apply headship (household formation) rates to projected household population levels to derive the number of households that will be projected to form, by local authority area and usually over a 25 year period.
- 3.17 The most recent household projections are the CLG 2012-based subnational household projections (SNHP), which were published on 27th February 2015. These projections show a growth of 9,615 households in King's Lynn and West Norfolk

over the period 2011 to 2031, a rate of 481 per annum. When a vacancy/second home allowance of 14.9% is applied, which is taken from the 2011 Census, the resulting dwelling requirement over the period 2011 to 2031 is 11,048 dwellings, 552 per annum.

- 3.18 It is important to recognise that the CLG 2012 SNHP are based on the ONS 2012 based subnational population projections (SNPP), which in turn project forward trends from the preceding reference period, 2007 to 2012, a period of recession. The concern with the 2012 SNPP is that they are totally based on migration rates from this period of recession when migration into King's Lynn and West Norfolk decreased significantly. It would be inappropriate to use these raw figures to forecast future housing requirements, not least because since 2012 the UK has entered into a time of economic growth. In those circumstances therefore it is better to amend the 2012 based figures so they are more reflective of the situation in King's Lynn and West Norfolk.
- 3.19 Previously the CLG 2008 based SNHP set out increases of 14,018 households (701 per annum) 2006 to 2026 and 17,834 households (713 per annum) 2006 to 2031 in King's Lynn and West Norfolk. The main reason for the difference between the 2008 based and 2012 based projections is that the 2008 based projections considered that by 2011 there would be a significantly greater number of households (64,114) than actually what was recorded in the 2011 Census. The 2012 projections (63,216 households at 2011) are closely aligned to the actual Census figures in 2011 of 62,977 households. In addition between 2011 and 2031, the 2008 projections envisaged a change of 15,277 (764 per annum). This is a faster growth in households than the 2012 household projections of 9,615 (480 per annum). This, it is considered, is because the economic circumstances since the recession in 2008 have made it more difficult for households to form, thus increasing the average household size over that projected in 2008 and slowing the growth in households.
- 3.20 Household rates are not likely to continue as economic circumstances improve. The likelihood is therefore that the figure of 585 households per annum, which is predicated on the existing conditions assumed in the 2011 projections continuing, will increase as households begin to form more readily following an improvement in their economic circumstances. This change will of course be dependent upon the strength of the economic improvement. Holmans in the TCPA paper *New Estimates of Housing Demand and Need 2011 to 2031* is of the view that the annual net

increase in households can be assumed to move back towards the long term trend in 2015 (page 28). This is a reasonable assumption. Indeed it is supported by the change in economic growth over the last two years as illustrated in the chart below:



3.21 This view is one shared by Mr R Yuille, the Inspector appointed to examine the Lichfield District Local Plan, who concluded that:

“Secondly, although the household representation rates in the 2011 CLG household projections are lower than those in the 2008 projections, this is a result of poor economic conditions that the latter projection took account of. However, over the longer term household representative rates have been rising and the fall of these rates identified in the 2011 projection is likely to have been driven by short term factors such as the impact of the recession, constraints on housing supply and constraints on mortgage lending. It is reasonable, therefore, to assume beyond 2021 (the end of the period covered by 2011 projection), household representation rates will resume their long term rise”.

3.22 In addition the Inspector in his Interim Conclusions regarding the South Worcestershire Development Plan is also of the view that beyond 2021 the household representative rates (HRR) should be those within the 2008 projections

(IR44). There is, therefore, no obvious justification for decision makers to adopt a different approach.

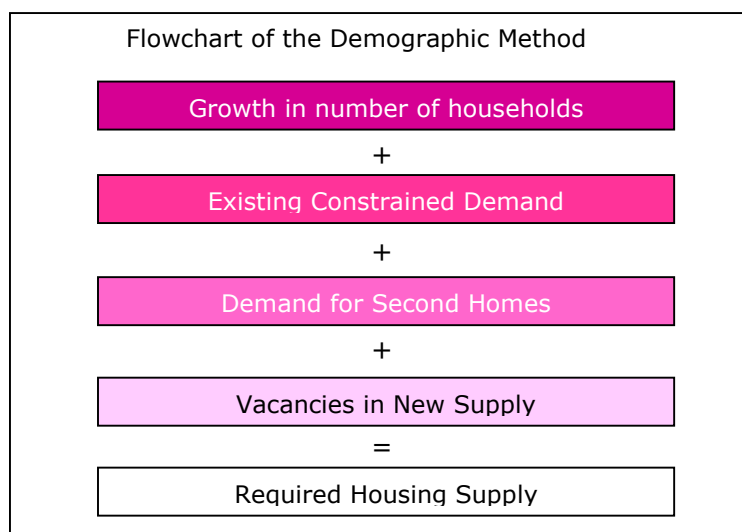
3.23 The uplift in household representation rates is generally undertaken on the basis of each age group through a model, but a reasonably robust conclusion can be drawn by taking the 2012 based household population at 2031 of 165,018. This figure is then divided by the projected household size in 2031 of 2.18 (*2012 projections indexed from 2016 to use change projected in household size from the 2008 SNHP. Projected change in 2008 SNHP is 2.21 to 2.12 persons per household. Change of -4.92%. This is applied to the 2012 SNHP household size of 2.29 in 2016 to reach 2.18 in 2031 – see table below*). This gives a figure of 75,696 households. The change, therefore from, 2011 to 2031 is 63,216 households at 2011 to 75,696 households at 2031 which equals 12,480 households at 624 per annum.

Projected household size in 2031 indexed to the change in 2008 SNHP:

1. Household size in 2008 SNHP at 2016	2.21
Household size in 2008 SNHP at 2031	<u>2.12</u>
Change (A)	4.92%
2. Household size in 2012 SNHP at 2016	2.29
Less (A) above	<u>4.92%</u>
Projected 2012 SNHP household size at 2031	2.18

3.24 Household projections do not equal dwellings required. In order to arrive at a figure for dwellings required there is a need to add an allowance to deal with unmet need or backlog (concealed households and reduction in sharing households), take account of second homes and vacancies in the Borough. This accords with the requirement in the NPPF to address the need for all types of housing and also to cater for housing demand. The approach is confirmed in the NHPAU document entitled "*Meeting the Housing Requirements of an Aspiring and Growing Nation*" (June 2008) paragraph 76. This is set out below:

"76. The Demographic Method, which is based on household projections, is the traditional approach used by planning authorities when developing their housing plans. This so called 'project and provide' method does not directly account for economic factors or changes in policy."



3.25 This can be done relatively simply to arrive at a future dwelling provision figure. It can also be done by way of an established model (such as the Chelmer model) which takes into account the most recently available data set.

3.26 It is important in considering the household projections to note that with the demise of the RS, there is now no agreement by any other authority that they will take households that King's Lynn and West Norfolk Borough do not provide for.

Simple Conversion of Household Projection to Dwellings

3.27 With regards to second homes and vacancy rates, the best figure to utilise is that contained within the 2011 Census which identifies household spaces with no usual residents in King's Lynn and West Norfolk Borough. This identifies the fact that this figure represents 14.9% of total household spaces. This then is the latest information available for second homes and vacancies and is used in the calculations below:

3.28 Thus converting the households to dwellings gives the following:

2012 household projections increase 2011 to 2031:	12,480
Second homes and vacancy rate – 14.9%:	<u>1,860</u>
Approx no. of dwellings required:	14,340 (717pa)

3.29 In respect of the latest evidence of future levels of need and demand it is clear that there is evidence for at least some **14,340 dwellings (717 per annum)** 2011 to 2031 based on the 2012 SNHP and this is without consideration of current unmet need in the Borough. The current position in respect of this figure is set out below:

Requirement 2011 to 2031 (20 years)	14,340 (717pa)
Completions April 2011 to April 2014	1,418
Residual Dec 2014 to April 2031 (16.4 years)	12,922 (760pa)

Sedgefield v Liverpool

3.30 One aspect to deal with is shortfalls in housing provision that may have arisen from 2011 (against the FOAN requirement established in this report) where completions have failed to meet requirements. There are two approaches taken to deal with this. The first is a residual approach (sometimes called the Liverpool approach) where the shortfall is spread across the plan period. The second approach seeks to make up the shortfall in the next 5 year period. This is known as the Sedgefield approach.

3.31 There is considerably more merit in the Sedgefield approach because it seeks to ensure housing is provided as quickly as possible and it therefore accords with the views of the government as set out in the NPPF to boost significantly the supply of housing (47). It also accords with the view of the government in the March 2011 Ministerial Statement which refers to a "call for action on growth" and "a pressing need to ensure that the planning system does everything it can to help secure a swift return to economic growth". Lastly it is a matter of logic that if delivery has not materialised at the rate expected then there must be a shortfall on the first date at which the 5 year supply is considered that needs to be taken account of. The approach of utilising the residual (Liverpool) approach to dealing with the shortfall to date would in effect be compounding past under delivery directly contrary to boosting housing supply.

3.32 In addition the Planning Practice Guidance sets out that Local Planning Authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible.

3.33 It is also an approach that has been utilised in an increasing number of appeals. Post NPPF in the Honeybourne appeal (APP/H1840/A/12/2171339), the Inspector at paragraph 36 endorses the Sedgefield approach and sets out that in his view it is inconsistent with Planning for Growth and the NPPF, paragraph 47 to meet any housing shortfall by spreading it over the whole plan period. Since this decision there has been an increasing number of Inspectors endorsing the Sedgefield approach. Notably in the Shottery decision in Stratford-on-Avon (APP/J3720/A/11/2163206), at paragraph 497 the Inspector is clear that the backlog should be added to the 5 year requirement on the basis that the NPPF emphasis is to boost significantly the supply of housing and this implies dealing expeditiously with a backlog.

3.34 The remaining requirement is 12,572 dwellings which would equal a provision of 760 per annum. However, in determining the requirement for housing it is relevant to use the Sedgefield approach which seeks to meet the annual requirement over the next 5 years rather than spread it over the whole remaining plan period. Using the Sedgefield approach, means that the 5 year requirement will be:

Annual requirement 2011 to 2031:	$717 \times 5 = 3,585$ dwellings
Shortfall at April 2014:	$717 \times 3 = 2,151$ requirement minus completions of 1,418 = 733
Total requirement over next 5 years:	$3,585 + 733 = 4,318$ dwellings

5% or 20% buffer

3.35 The NPPF at paragraph 47 requires consideration to be given as to whether a 5% or 20% buffer is added to the requirement in order to ensure choice and competition in the market for land. If there is a persistent record of under delivery of housing the buffer should be 20% in order to provide a realistic prospect of achieving the planned supply.

3.36 The judgment in the High Court in *Cotswold DC v SoS for Communities & Local Government & Others [2013] EWHC 3719 (Admin)* helpfully sets out at paragraphs 42 to 50 the legal basis for a decision maker considering which buffer to apply. Mr Justice Lewis, in setting out the interpretation of this element of paragraph 47 from the Framework, indicates that regard must be had to the purpose and context of that paragraph, that is what local planning authorities should do to boost

significantly the supply of housing. The extent to which past under delivery of housing is persistent so as to trigger the need for a 20% buffer is largely a matter for the decision maker, but he or she is entitled to consider the extent to which any requirements against which supply is measured are themselves constrained and understate the actual need for housing.

- 3.37 When reviewing the delivery of housing, in none of the last 6 years has the Local Authority met the Core Strategy requirement of 660 dwellings per annum (see Graph 3 of the HELAA 2014 Highlights Report). The *Cotswold* judgment supported that Inspector's approach of taking the past 5 years as the basis for deciding what buffer to apply.
- 3.38 Given the fact that over the last 6 years the Local Authority has failed to achieve the annual amount required, there is no doubt that a 20% buffer should be added. Paragraph 9 of the Clenchwarton Inspectors report (January 2015) (**Appendix 1**) confirms that a 20% buffer is the correct buffer to apply.
- 3.39 A 20% buffer as required by the NPPF when added onto the 5 year requirement therefore gives the 5 year supply target of **5,182 (1,036 per annum)**.

Conclusions on the Full Objectively Assessed Need

- 3.40 The Pegasus assessment, as set out above, indicates a requirement of 14,340 dwellings over the period 2011 to 2031 equating to 717 dwellings per annum.
- 3.41 It is established that the requirement in the Core Strategy does not fulfil the FOAN in the Borough at only 660 dwellings per annum.
- 3.42 Given that the Core Strategy requirement is based on old household projections it is imperative therefore that in line with the requirements of the NPPF the plan is brought up to date through a review. This was confirmed by the Inspector at the 2012 Clenchwarton appeal who stated that the Local Authority will need to re-visit its housing provision in the light of more recent household projections, and to keep its housing supply in line with the evidence base in the future.
- 3.43 Indeed, the Local Authority have undertaken further work with the publication of a SHMA update 2014. However as set out in this report there are concerns with the methodologies used in the SHMA update 2014. The SHMA update identified 690 households per annum, which is different to dwellings as it does not make the

14.9% allowance for vacancies and second homes. The 2015 Clenchwarton Inspector (**Appendix 1**) noted this and recognised that when the conversion to dwellings is made to the SHMA households figure there is actually a FOAN for between 711 and 793 dwellings a year. As such the Core Strategy requirement of 660 dwellings per annum is no longer realistic and needs to be reviewed now.

- 3.44 In determining the 5 year housing requirement based on the FOAN assessment, utilising the Sedgefield approach to dealing with shortfall and applying a 20% buffer due to persistent under delivery the 5 year requirement for King's Lynn and West Norfolk Borough Council is 5,182 at 1,036 dwellings per annum.

4 FIVE YEAR HOUSING LAND SUPPLY

- 4.1 The Government is particularly concerned to ensure that there is a realistic and deliverable supply of housing to meet local needs, both in terms of general housing and also in terms of affordable housing. The absence of a continuing supply of housing land has significant social and economic consequences in relation to people finding homes and is in direct opposition to the thrust of the NPPF, which is that everyone should have the opportunity of a wider choice of housing. Housing land supply, therefore, is not just related to a mathematical calculation, it is about ensuring that land comes forward early enough to meet real needs.
- 4.2 The NPPF is clear at Paragraph 47 that in order to boost significantly the supply of housing, Local Authorities should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against their housing requirements, together with an additional appropriate buffer of 5% or 20%. Footnote 11 from the NPPF states that to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years, in particular that development of the site is viable. Footnote 11 goes on to say that sites with planning permission should be considered deliverable unless there is clear evidence that schemes will not be implemented within 5 years.
- 4.3 The PPG adds further to the policy set out in Paragraph 47 of the NPPF concerning the importance of demonstrating a 5 year supply of housing, indicating it is a key material consideration when determining housing applications and appeals (ID 3-033). The PPG goes on to reiterate the definitions of deliverability set out in Footnote 11 to the NPPF, but adds that Local Planning Authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgments on deliverability are clearly and transparently set out (ID 3-031).
- 4.4 In considering a 5 year supply of housing, sites are to be deliverable. This means that they have to be available now. They have to be in a suitable location, be achievable with a reasonable prospect of being developed within 5 years and are viable. Lastly they can be discounted if they will not be developed in the 5 year period, if for example there is no demand for the type of units permitted. Sites also have to be developable which means that it is in a suitable location for housing

development, there should be a reasonable prospect they are available and can be viably developed within the period.

- 4.5 Windfall can only be used if there is compelling evidence of supply and there will continue to be a reliable source of supply. The allowance needs to be realistic taking account, the SHLAA historic delivery, expected future trends and should not include residential gardens.
- 4.6 Turning to look at the supply situation, Table 2 below considers this element in summary form for King's Lynn and West Norfolk. These figures are taken from the Table 2 included in the Local Authority document entitled *Response to Request to Clarify the Council's Position in Relation to the Appellant's Submission of 28 November 2015* which was submitted to the Clenchwarton appeal on 5th December 2014:

Table 2: Housing supply in King's Lynn and West Norfolk April 2014

1st April 2014	Local Authority	Pegasus
Extant consents on Allocated Sites	615	553
Extant consents on joint allocated/unallocated sites	157	141
Extant consents on Unallocated sites (10+)	494	445
Extant Unallocated Sites (5-9 units)	223	201
Extant consents for small sites (1-4 units)	812	731
Allocated sites with no planning permission	142	128
Emerging allocations (Pre-Submission Plan)	2,303	0
Lapsed Permissions	0	0
Windfall – large sites	670	0
Windfall – small sites	470	268
HELAA identified sites	85	85
Total Supply	5,971	2,552

- 4.7 The NPPF requires sites to be deliverable and achievable. Sites with permission can easily move from one period into another due to market and other constraints (such as ownership, difficulty with access, problems with land conditions etc.). Sites may have gained permission purely as a valuation exercise with no intention of being built, particularly small sites. In addition, in an adverse market there can be redesigns on sites to improve their viability. This is particularly the case at present, where redesigns are taking place to provide different forms of housing in response to the market. Such redesigns with larger housing types with gardens will reduce density.
- 4.8 Pegasus start with the premise that all sites with permission are considered deliverable but consider it is reasonable to allow for a 10% discount on such sites to deal with the inevitable impacts on completions that will occur in respect of these sites over the 5 year period (this approach is supported by "*Housing Land Availability*" DOE, Planning and Research Programme Paper, Roger Tym and Partners, 1995). This is an aspect that was accepted by the Inspectors at a variety of appeals including the Honeybourne appeal (APP/H1840/A/12/2171339), paragraph 39 and the Tetbury appeal (APP/F1610/A/11/2165778), paragraph 14.26. It was also accepted in the High Court challenge at Tetbury that the use of 10% was reasonable having regard to footnote 11 of the NPPF. More recently at the Droitwich appeals the Inspector also considered it reasonable to apply a 10% discount (paragraph 8.55 and Secretary of State decisions paragraph 14).
- 4.9 The Inspector at the Clenchwarton appeal, in his report dated January 2015 (**Appendix 1**), states in paragraph 10, that:

"In terms of non-completion, officers are heavily dependent on the quality of third party information and not all respondents might have the same aims as the Council. There is likely to be an element of uncertainty and, notwithstanding the view of the Inspector in the previous appeal at the Sports Ground, the application of a further discount would make the assessment more robust. 10% as suggested by the appellant has been supported in decisions elsewhere and, in the absence of any justified alternatives, a 10% discount would be appropriate in this case".

- 4.10 It is therefore appropriate to include a 10% discount to the commitments and allocations.

- 4.11 In relation to windfalls, paragraph 48 of the NPPF states that an allowance can be made in the 5 year supply of there is compelling evidence that such sites have consistently become available in the local area, and will continue to provide a reliable source.
- 4.12 Windfall allowance can be provided where there is a record of small windfall sites coming forward. It is accepted that the windfall allowance only relates to small sites, since larger sites should be allocated in the Local Authority's plan or SHLAA, see the Honeybourne appeal decision (APP/H1840/A/12/2171339) paragraph 40. King's Lynn and West Norfolk is currently producing a Site Allocations document which will identify specific large sites. The Inspector at the Clenchwarton appeal (**Appendix 1**) found in paragraph 11 of his report that:

"Between 2001 and 2014, 49% of total completions in the Borough were from windfall sites, and 59% of those were from large sites of more than 10 dwellings. Given that the Council is seeking to adopt a new policy to allow infilling in the smaller villages and hamlets, small sites are likely to continue to provide a reliable source of windfalls. However, given the publication of the *Pre-Submission Site Allocations and Development Management Document* releasing the full plan provision of new sites, it is likely that the majority of large sites would come from allocations. Rather than there being compelling evidence, as the NPPF requires, there is at best only a possibility that some completions would come from large site windfalls and these should therefore be discounted".

- 4.13 There is therefore no reason to allow for a large site windfall allowance in King's Lynn and West Norfolk.
- 4.14 The Local Authority include a figure of 2,303 dwellings which form the emerging allocations in the Pre-Submission Plan as part of the 5 year supply. Pegasus do not consider that sites in the Pre-Submission Plan should be included within the 5 year supply given the findings of the High Court in the *Wainhomes (South West) Holdings Ltd v The Secretary of State for Communities and Local Government [2013] EWHC 597 (Admin)* paragraphs 34 and 35 where the inclusion of such sites is only a 'starting point', and in the absence of site specific evidence, it cannot be either assumed or guaranteed that sites so included are deliverable when they do not have planning permission and are known to be subject to objections. Therefore given the stage of progress that the Site Allocations document has reached, there

is no evidence to suggest the sites are deliverable, hence constituting little weight and therefore they should be excluded from the 5 year supply.

4.15 In light of the above discounting, Pegasus determine that there is a 5 year supply of 2,552 units to which the Clenchwarton Inspector (January 2015) concurred in paragraph 12 of his decision letter.

4.16 Table 3 summarises the housing supply position and indicates that against the FOAN based on the most up to date information available from the 2012 SNHP, the Local Authority currently cannot demonstrate a 5 year supply of housing land. There is a **2.46 years housing supply**.

Table 3: Housing land supply position as at April 2014

King's Lynn and West Norfolk Housing Requirement as at 1 st April 2014	FOAN (2011 to 2031) based on the 2012 household projections
Annual requirement	717
Annual requirement + shortfall & 20% buffer	1,036
5 year requirement	5,182
Pegasus Housing Supply	2,552
Years Supply (+20% buffer)	2.46

4.17 The Clenchwarton Inspector (January 2015) found, upon the evidence put before him, that there was only a 1.91 years housing supply in the Borough, however this was based on the 2011 SNHP.

4.18 The NPPF is clear that where there is not a 5 year supply of housing land the relevant policies should not be considered to be up to date (paragraph 49). In those circumstances planning permission should be granted provided that the development is not restricted by other policies in the NPPF (paragraph 14).

"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to be up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites"

4.19 The NPPF outlines that the presumption in favour of sustainable development should be seen as a golden thread running through both plan making and decision-taking. Paragraph 14 specifically states that:

"For decision-taking this means:

- **approving development proposals that accord with the development plan without delay; and**
- **where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:**
 - **any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or**
 - **specific policies in this Framework indicate development should be restricted".**

4.20 In the above circumstances set out by Paragraph 49 where housing policies are not up to date then the policy set out in paragraph 14 is applicable, that is where the development plan has out of date policies then this means planning permission should be granted unless the proposals do not accord with the two bullet points listed.

5. CONCLUSION

- 5.1 The NPPF requires that the full, objectively assessed need for market and affordable housing is met in the Borough. The housing provision set out in the Core Strategy needs to be re-visited in light of more recent household projections and the future evidence base, as identified by the Inspector at the Clenchwarton appeals in 2012 and 2015.
- 5.2 In light of this, this report has undertaken an assessment of the current FOAN for the Borough using the most up to date evidence available. Pegasus find that the FOAN for the Borough is currently 717 dwellings per annum over the next 17 years when taking vacancies and second homes into consideration. This equates to a total of 14,340 dwellings over the period 2011 to 2031 for King's Lynn and West Norfolk Borough Council.
- 5.3 In addition, it is important to note that the SHMA update 2014 utilises more up to date evidence than the Core Strategy and despite issues regarding its assumptions on migration, supports a FOAN much higher than the Core Strategy requirement.
- 5.4 In light of these findings, and those of the Clenchwarton Inspector 2015, there is a clear and current need to review the housing requirement in the Core Strategy app
- 5.5 With regards to the 5 year supply, when the correct discounts are made to the Local Authority's latest supply breakdown, in accordance with the Clenchwarton Inspectors (January 2015) findings, the Borough cannot demonstrate a 5 year supply of housing, standing at only 2.46 years.
- 5.6 In light of a lack of a 5 year supply the presumption in favour of granting permission set out in paragraph 14 of the NPPF, therefore, has to be taken into account. There is a need therefore to release additional sites, in order to rectify this situation.

APPENDIX A

Appeal Decision

Hearing held on 10 December 2014

Site visit made on 10 December 2014

by K D Barton BSc(Hons) Dip Arch Dip Arb RIBA FCI Arb

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

Decision date: 20 January 2015

Appeal Ref: APP/V2635/A/14/2219315

Fosters Sports Ground, Main Road, Clenchwarton, Norfolk PE34 4BP

- The appeal is made under section 78 of the *Town and Country Planning Act 1990* against a refusal to grant outline planning permission.
 - The appeal is made by Elm Park Holdings against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 13/01123/OM, dated 27 July 2013, was refused by notice dated 22 November 2013.
 - The development proposed is "a residential development of up to 40 dwellings of which 8 would be affordable. All matters are reserved other than access".
-

Decision

1. The appeal is allowed and outline planning permission is granted for "a residential development of up to 40 dwellings of which 8 would be affordable. All matters are reserved other than access", at Fosters Sports Ground, Main Road, Clenchwarton, Norfolk PE34 4BP in accordance with the terms of the application, Ref 13/01123/OM, dated 27 July 2013, subject to the conditions in the attached schedule.

The Site and its Surroundings

2. The appeal site is located approximately 1 kilometre to the east of the junction of Main Road and Hall Road in the centre of Clenchwarton where existing services and facilities are located. The site, which has an area of around 1.43 hectares, lies within the countryside, as defined in the *King's Lynn and West Norfolk Local Plan 1998 (LP)* and the *King's Lynn and West Norfolk Borough Council Local Development Framework - Core Strategy (2011) (CS)*, and is not previously developed land as defined by Annex 2 of the *National Planning Policy Framework (Framework)*. Access is between 41 Main Road and a commercial garage on the southern boundary and the site borders Nos 30-40 Coronation Road to the east. An illustrative plan indicates landscaping could be provided on blue land between the northern boundary of the appeal site and the 'north field' of the former Fosters Sports Ground to the north, and on blue land to the west of the site.

Housing Land Supply

3. An outline application for up to 75 dwellings on a larger site at the Fosters Sports Ground (APP/V2635/A/2175128) was dismissed at appeal in November 2012. Whilst this is a material consideration, and reference has been made to it in this decision, there are differences between that scheme and the appeal

- proposal, not least the number of units proposed and the extent of the site. Each case should be considered on its own merits.
4. Paragraph 215 of the *Framework* states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the *Framework*. Paragraph 49 sets out that "Housing applications should be considered in the context of the 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".
 5. There are a number of differences between the main parties in terms of housing land supply, but they agree that, in the light of *Bloor Homes East Midlands Limited v Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council* and the publication of the *Planning Practice Guidance (Guidance)*, the 'Sedgefield' method should be preferred.
 6. The Council considers the CS figure of 16,500 dwellings in the period 2001 to 2026 (660 dwellings per annum) to be the correct requirement and claims that the 2013 Strategic Housing Market Assessment (SHMA) update still supports that as a realistic figure. The Council's methodology was used in the previous appeal relating to 75 dwellings and was not challenged in the High Court. However, the CS is based on what are now old household projections. Indeed, the Council notes that the *Framework* "makes reference to keeping plans up to date and therefore under review" and the Inspector in the previous appeal states at paragraph 12 of her decision, issued in November 2012, that "The Council will need to re-visit its housing provision in the light of more recent household projections, and to keep its housing supply in line with the evidence base in the future". That is the approach adopted by the appellant in this case.
 7. Indeed, the SHMA explains that there would be a requirement of 690 households per annum. Households do not equate to dwellings and allowance should be made for vacancies and second homes. The 2011 census records that King's Lynn has 14.9% vacancies and second homes, which would give a full objectively assessed need (FOAN) of 793 dwellings a year. If, as a minimum, only vacancies are considered, it is generally recognised that a figure of 3% be used giving a requirement of 711 dwellings per annum. A minimum of 51 additional dwellings a year, and possibly as many as 133, over and above the CS requirement of 660 does not suggest that the CS requirement is still realistic. Indeed, over a 15 year period that equates to a minimum need for in excess of 750 additional dwellings.
 8. Considering the appropriate buffer to be applied, *Framework* paragraph 47 indicates that a 5% buffer should be added "to ensure choice and competition. However, where there has been a record of persistent under delivery the buffer should be increased to 20%. The *Guidance* confirms that there is no universal test for persistent under delivery and sets out that the assessment of local delivery is likely to be more robust if a longer term view is taken.
 9. In each of the last six years the Council has failed to achieve its requirement of 660 dwellings per annum and has only averaged 447 dwellings a year. The Council notes that the trend from 2001 to 2014, which includes the recession between 2008 and 2013, is running at 622 dwellings per annum. Although development rates are rising, and the Council published its *Pre-Submission Site Allocations and Development Management Document* in October, which it is

- acknowledged would release the full plan provision of new sites, the long term trend is behind the target of 660 dwellings per annum with a shortfall of some 487 dwellings in the period to date. This indicates that the Council has persistently under provided and so a 20% buffer should be applied.
10. Turning to whether a further 10% discount should be applied, the Council does not consider that a further 10% is needed as the CS included a 10% allowance for “flexibility and non-completion of commitments” and all sites in the Trajectory have been subject to discounting by basing delivery figures on either developer’s responses or local evidence of delivery rates. Given the under delivery, there is little flexibility in the figures. Moreover, in terms of non-completion, Officers are heavily dependent on the quality of third party information and not all respondents might have the same aims as the Council. There is likely to be an element of uncertainty and, notwithstanding the view of the Inspector in the previous appeal at the Sports Ground, the application of a further discount would make the assessment more robust. 10% as suggested by the appellant has been supported in decisions elsewhere and, in the absence of any justified alternatives, a 10% discount would be appropriate in this case.
 11. In relation to windfalls, paragraph 48 of the *Framework* states that an allowance can be made in the five year supply if there is compelling evidence that such sites have consistently become available in the local area, and will continue to provide a reliable source. Between 2001 and 2014, 49% of total completions in the Borough were from windfall sites, and 59% of those were from large sites of more than 10 dwellings. Given that the Council is seeking to adopt a new policy to allow infilling in the smaller villages and hamlets, small sites are likely to continue to provide a reliable source of windfalls. However, given the publication of the *Pre-Submission Site Allocations and Development Management Document* releasing the full plan provision of new sites, it is likely that the majority of large sites would come from allocations. Rather than there being compelling evidence, as the *Framework* requires, there is at best only a possibility that some completions would come from large site windfalls and these should therefore be discounted.
 12. The appellant raised three queries relating to permissions. Whilst 302 dwellings are under construction at Hillingdon Square, the net result of development is the loss of 17 units. The Council accepts this and -17 is now included in the Housing Trajectory. Secondly, in respect of the Nar Ouse Regeneration Area (NORA), the appellant considers that only 300 of the 554 with outline planning permission are likely to be completed in the 5 year period. Whilst Reserved Matters permissions were granted for a further 185 on 1 December 2014, and a preferred bidder has been approved to deliver 600 units by 2020 on Council and Homes and Community Agency land, there is little evidence to counteract the appellant’s view. Finally, permission on a site north of Gaywood River, King’s Lynn has lapsed and an application for 95 dwellings was subsequently refused although a revised application has just been resubmitted with the applicant claiming to have overcome the outstanding reason for refusal from appeal. The parties disagree on the figures but again the appellant’s are more robust, despite the Council’s view that the Guidance on what are deliverable sites would give greater flexibility and add to the potential 5 year supply of sites.
 13. Given the conclusions above, the appellant’s calculations are preferred and show that rather than having a 7.51 years supply (based on the CS and a 5%

buffer) as the Council maintains, there would only be a 1.91 year housing supply (based on 2011 housing projections and a 20% buffer). Notwithstanding the Council's view that the policies in the CS are consistent with the *Framework*, as there is no 5 year supply the housing policies, including policies defining settlement boundaries, cannot be regarded as up-to-date. Housing applications should, therefore, be considered in the context of the presumption in favour of sustainable development, in accordance with the aims of the *Framework*.

Sustainability

14. I note the concerns of local people, supported by Henry Bellingham MP, that development outside the village boundary would not be sustainable and could lead to urban sprawl linking to King's Lynn. Paragraphs 7 and 8 of the *Framework* set out three dimensions to sustainability: economic; social; and environmental, which are mutually dependent, whilst paragraph 14 sets out that at the heart of the *Framework* is a presumption in favour of sustainable development.
15. Considering the environmental role, the appeal site is a Greenfield location about 1 kilometre from the village centre and it lies outside the development boundary for Clenchwarton. However, the development boundary must be considered out of date, due to the lack of a 5 year housing land supply. Provided the proposal maintains the sporadic nature of development around the village the proposal would not lead to coalescence of settlements and any environmental impact would be minimised.
16. Moreover, Clenchwarton is identified in the CS as a Key Rural Service Centre and CS Policy CS01 states that residential development should be encouraged "within or adjacent to these selected Key Rural Service Centres". In this case, the site has been considered and rejected by the Council as a housing allocation site, partly due to distance from the 'heart' of the village and the fact that it was not adjoining the village boundary, which is now out of date.
17. In economic terms, even though around 1 kilometre from the services and facilities at the 'heart' of the village, the proposed development would help sustain them and contribute to their vitality and viability. In social terms, although it is accepted that any infrastructure contributions would be mitigation rather than a benefit, the development would contribute by providing 40 needed houses, eight of which would be affordable, to help satisfy local need. When all three dimensions are considered together the site would be sustainable.

Effect on the Character and Appearance of the Countryside

18. The character and appearance of Clenchwarton and its surroundings is that of a small village with several sporadic pockets of development around, but outside, the main settlement. Further afield there is flat agricultural land. The appeal site has not been used for sports activities for some years and is vacant and largely unused. The proposal would lie outside the main settlement, as defined in both the LP and CS, although these policies must be regarded as out of date.
19. The proposed scheme would adjoin the rear boundaries of properties in Coronation Road and a few properties on Main Road, but unlike an earlier scheme for 75 houses (APP/V2635/A/12/2175128) on a larger site, it would not

consolidate the existing sporadic development to the extent that it would alter the perceived character and appearance of the area around the main village by consolidating or urbanising the area. This is because views into and out of the site are very limited due to the existing hedges, a fact accepted by the Inspector in the previous appeal. An illustrative layout, master plan, and section, demonstrate that the site could be developed with dwellings set away from the access such that the houses, whilst not hidden, could be screened and would not be conspicuous, even given the need to raise site levels locally around the houses and to set the FFL at 3.25 metres AOD. The character and appearance of sporadic pockets of development outside the main village would be maintained.

20. The previous Inspector concluded that it had not been demonstrated that the development, incorporating the flood mitigation measures as in this case, would be effectively screened within the wider landscape. That is not the case in this appeal, as set out above, due at least in part to the reduced number of dwellings proposed and their location some distance from the access.

Flood Risk

21. The site is located in Flood Zone 3 (Tidal) and a Hazard Zone as defined in the *King's Lynn and West Norfolk Strategic Flood Risk Assessment (SFRA)*. The *Tidal River Hazard Mapping Protocol 2012* also defines the site as at high risk of flooding. In the event of an overtopping/breach of the defences of the Great River Ouse the site could be flooded up to a depth of one metre.
22. Paragraph 14 of the *Framework* indicates that where the development plan is absent, silent, or relevant policies are out of date, planning permission should be granted unless, amongst other matters, specific policies in the *Framework* indicate development should be restricted. Footnote 9 to paragraph 14 notes that such specific policies include those relating to locations at risk of flooding.
23. The previous appeal decision relating to the site concluded that the 75 dwelling scheme conflicted with the advice in *Framework* paragraph 102. *Framework* paragraph 100 refers to applying a sequential, risk-based approach whilst paragraphs 101 and 102 relate to Sequential and Exceptions Tests, the latter of which has two limbs, both of which must be satisfied.
24. Paragraph 101 states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Although the Council maintains that there are sequentially preferable sites adjacent to the village, as they are in Flood Zone 3 but not a Hazard Zone, both the village and the site are protected by the same flood defences against a 1 in 200 event, inclusive of climate change. Both must, therefore, have the same risk of flooding and there is no sequential preference between them.
25. The Hazard Zone falls to be considered under the Exception Test. *Framework* Paragraph 102 sets out two limbs for the Exception Test. Firstly: the development should provide wider sustainability benefits to the community that outweigh flood risk; and secondly, a site-specific flood risk assessment (FRA) must demonstrate that the development should be safe for its lifetime taking into account the vulnerability of its users without increasing flood risk elsewhere, and where possible, reduce flood risk overall.

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28. The proposal would comply with the aims of Chapter 10 of the *Framework* and CS Policy CS08.

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K D Barton

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APP/V2635/A/14/2219315

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- writing by, the local planning authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is occupied.
- 9) No development shall take place until a detailed outdoor lighting scheme has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall include details of the types of lights, the orientation/angle of the luminaries, the spacing and height of lighting columns, the extent/levels of illumination over the site and on the adjacent land, and measures to contain light within the curtilage of the site. The approved scheme shall be implemented and thereafter retained in working order.
 - 10) No development shall take place until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be implemented during the period of construction.
 - 11) No development shall take place until details of arrangements for future management and maintenance of the streets within the development have been submitted to, and approved in writing by, the local planning authority. The streets shall thereafter be maintained in accordance with the approved details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established.
 - 12) No development shall take place until detailed plans of the roads, footways, foul and surface water drainage have been submitted to, and approved in writing by, the local planning authority. All construction works shall be carried out in accordance with the approved plans.
 - 13) No dwelling shall be occupied until the roads and footways have been constructed to binder course surfacing level from the dwelling to the adjoining County road in accordance with details that have previously been submitted to, and approved in writing by, the local planning authority.
 - 14) Notwithstanding the details on the application drawings, no development shall take place until a detailed scheme for the off-site highway improvement works, as indicated on drawing no STH2713-007 A, has been submitted to, and approved in writing by, the local planning authority.
 - 15) No dwelling shall be occupied until the off-site improvements works referred to in condition 14 have been implemented in accordance with the approved scheme.
 - 16) No dwelling shall be occupied until a scheme for the provision of fire hydrants has been implemented in accordance with a scheme that has previously been submitted to, and approved in writing by, the local planning authority.
 - 17) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to, and approved in writing by, the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the *National*

Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 8 housing units;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no RSL involved);
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing, and the means by which such occupancy criteria shall be enforced.

APPEARANCES

FOR THE APPELLANT:

Richard Brown MSc

Tony Bateman

Jeremy Peachey

Matt Cheeseman

Alan Wallis

The Pegasus Group

The Pegasus Group

RSK Group

Wallis Design

FOR THE LOCAL PLANNING AUTHORITY:

Peter Jermany

Hannah Wood-Handy

Principal Planning Officer

Principal Planning Officer

INTERESTED PERSONS:

Stephen Faulkner

Laura Waters

Richard Brown

Mr M Collins

Mr R Collins

Kim Lyon

Paul Lyon

K Smart

James Drennan

Norfolk County Council

Norfolk County Council

Clenchwatton Parish Council

Local Resident

Local Resident

Local Resident

Local Resident

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Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

Doc 1 Wainhomes (South West) Holdings Limited Judgement [2013] EWHC 597 (Admin)

Doc 2 Replacement Table 2a Housing Supply from Updated Housing Trajectory as at 1 April 2014 from LPA's Statement 5 December 2014

Doc 3 Council's response bundle dated December 2014

Appeal Decision

Hearing held on 10 December 2014

Site visit made on 10 December 2014

by K D Barton BSc(Hons) Dip Arch Dip Arb RIBA FCI Arb

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

Decision date: 20 January 2015

Appeal Ref: APP/V2635/A/14/2219315

Fosters Sports Ground, Main Road, Clenchwarton, Norfolk PE34 4BP

- The appeal is made under section 78 of the *Town and Country Planning Act 1990* against a refusal to grant outline planning permission.
 - The appeal is made by Elm Park Holdings against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 13/01123/OM, dated 27 July 2013, was refused by notice dated 22 November 2013.
 - The development proposed is "a residential development of up to 40 dwellings of which 8 would be affordable. All matters are reserved other than access".
-

Decision

1. The appeal is allowed and outline planning permission is granted for "a residential development of up to 40 dwellings of which 8 would be affordable. All matters are reserved other than access", at Fosters Sports Ground, Main Road, Clenchwarton, Norfolk PE34 4BP in accordance with the terms of the application, Ref 13/01123/OM, dated 27 July 2013, subject to the conditions in the attached schedule.

The Site and its Surroundings

2. The appeal site is located approximately 1 kilometre to the east of the junction of Main Road and Hall Road in the centre of Clenchwarton where existing services and facilities are located. The site, which has an area of around 1.43 hectares, lies within the countryside, as defined in the *King's Lynn and West Norfolk Local Plan 1998 (LP)* and the *King's Lynn and West Norfolk Borough Council Local Development Framework - Core Strategy (2011) (CS)*, and is not previously developed land as defined by Annex 2 of the *National Planning Policy Framework (Framework)*. Access is between 41 Main Road and a commercial garage on the southern boundary and the site borders Nos 30-40 Coronation Road to the east. An illustrative plan indicates landscaping could be provided on blue land between the northern boundary of the appeal site and the 'north field' of the former Fosters Sports Ground to the north, and on blue land to the west of the site.

Housing Land Supply

3. An outline application for up to 75 dwellings on a larger site at the Fosters Sports Ground (APP/V2635/A/2175128) was dismissed at appeal in November 2012. Whilst this is a material consideration, and reference has been made to it in this decision, there are differences between that scheme and the appeal

proposal, not least the number of units proposed and the extent of the site. Each case should be considered on its own merits.

4. Paragraph 215 of the *Framework* states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the *Framework*. Paragraph 49 sets out that "Housing applications should be considered in the context of the 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".
5. There are a number of differences between the main parties in terms of housing land supply, but they agree that, in the light of *Bloor Homes East Midlands Limited v Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council* and the publication of the *Planning Practice Guidance (Guidance)*, the 'Sedgefield' method should be preferred.
6. The Council considers the CS figure of 16,500 dwellings in the period 2001 to 2026 (660 dwellings per annum) to be the correct requirement and claims that the 2013 Strategic Housing Market Assessment (SHMA) update still supports that as a realistic figure. The Council's methodology was used in the previous appeal relating to 75 dwellings and was not challenged in the High Court. However, the CS is based on what are now old household projections. Indeed, the Council notes that the *Framework* "makes reference to keeping plans up to date and therefore under review" and the Inspector in the previous appeal states at paragraph 12 of her decision, issued in November 2012, that "The Council will need to re-visit its housing provision in the light of more recent household projections, and to keep its housing supply in line with the evidence base in the future". That is the approach adopted by the appellant in this case.
7. Indeed, the SHMA explains that there would be a requirement of 690 households per annum. Households do not equate to dwellings and allowance should be made for vacancies and second homes. The 2011 census records that King's Lynn has 14.9% vacancies and second homes, which would give a full objectively assessed need (FOAN) of 793 dwellings a year. If, as a minimum, only vacancies are considered, it is generally recognised that a figure of 3% be used giving a requirement of 711 dwellings per annum. A minimum of 51 additional dwellings a year, and possibly as many as 133, over and above the CS requirement of 660 does not suggest that the CS requirement is still realistic. Indeed, over a 15 year period that equates to a minimum need for in excess of 750 additional dwellings.
8. Considering the appropriate buffer to be applied, *Framework* paragraph 47 indicates that a 5% buffer should be added "to ensure choice and competition. However, where there has been a record of persistent under delivery the buffer should be increased to 20%. The *Guidance* confirms that there is no universal test for persistent under delivery and sets out that the assessment of local delivery is likely to be more robust if a longer term view is taken.
9. In each of the last six years the Council has failed to achieve its requirement of 660 dwellings per annum and has only averaged 447 dwellings a year. The Council notes that the trend from 2001 to 2014, which includes the recession between 2008 and 2013, is running at 622 dwellings per annum. Although development rates are rising, and the Council published its *Pre-Submission Site Allocations and Development Management Document* in October, which it is

- acknowledged would release the full plan provision of new sites, the long term trend is behind the target of 660 dwellings per annum with a shortfall of some 487 dwellings in the period to date. This indicates that the Council has persistently under provided and so a 20% buffer should be applied.
10. Turning to whether a further 10% discount should be applied, the Council does not consider that a further 10% is needed as the CS included a 10% allowance for “flexibility and non-completion of commitments” and all sites in the Trajectory have been subject to discounting by basing delivery figures on either developer’s responses or local evidence of delivery rates. Given the under delivery, there is little flexibility in the figures. Moreover, in terms of non-completion, Officers are heavily dependent on the quality of third party information and not all respondents might have the same aims as the Council. There is likely to be an element of uncertainty and, notwithstanding the view of the Inspector in the previous appeal at the Sports Ground, the application of a further discount would make the assessment more robust. 10% as suggested by the appellant has been supported in decisions elsewhere and, in the absence of any justified alternatives, a 10% discount would be appropriate in this case.
 11. In relation to windfalls, paragraph 48 of the *Framework* states that an allowance can be made in the five year supply if there is compelling evidence that such sites have consistently become available in the local area, and will continue to provide a reliable source. Between 2001 and 2014, 49% of total completions in the Borough were from windfall sites, and 59% of those were from large sites of more than 10 dwellings. Given that the Council is seeking to adopt a new policy to allow infilling in the smaller villages and hamlets, small sites are likely to continue to provide a reliable source of windfalls. However, given the publication of the *Pre-Submission Site Allocations and Development Management Document* releasing the full plan provision of new sites, it is likely that the majority of large sites would come from allocations. Rather than there being compelling evidence, as the *Framework* requires, there is at best only a possibility that some completions would come from large site windfalls and these should therefore be discounted.
 12. The appellant raised three queries relating to permissions. Whilst 302 dwellings are under construction at Hillingdon Square, the net result of development is the loss of 17 units. The Council accepts this and -17 is now included in the Housing Trajectory. Secondly, in respect of the Nar Ouse Regeneration Area (NORA), the appellant considers that only 300 of the 554 with outline planning permission are likely to be completed in the 5 year period. Whilst Reserved Matters permissions were granted for a further 185 on 1 December 2014, and a preferred bidder has been approved to deliver 600 units by 2020 on Council and Homes and Community Agency land, there is little evidence to counteract the appellant’s view. Finally, permission on a site north of Gaywood River, King’s Lynn has lapsed and an application for 95 dwellings was subsequently refused although a revised application has just been resubmitted with the applicant claiming to have overcome the outstanding reason for refusal from appeal. The parties disagree on the figures but again the appellant’s are more robust, despite the Council’s view that the Guidance on what are deliverable sites would give greater flexibility and add to the potential 5 year supply of sites.
 13. Given the conclusions above, the appellant’s calculations are preferred and show that rather than having a 7.51 years supply (based on the CS and a 5%

buffer) as the Council maintains, there would only be a 1.91 year housing supply (based on 2011 housing projections and a 20% buffer). Notwithstanding the Council's view that the policies in the CS are consistent with the *Framework*, as there is no 5 year supply the housing policies, including policies defining settlement boundaries, cannot be regarded as up-to-date. Housing applications should, therefore, be considered in the context of the presumption in favour of sustainable development, in accordance with the aims of the *Framework*.

Sustainability

14. I note the concerns of local people, supported by Henry Bellingham MP, that development outside the village boundary would not be sustainable and could lead to urban sprawl linking to King's Lynn. Paragraphs 7 and 8 of the *Framework* set out three dimensions to sustainability: economic; social; and environmental, which are mutually dependent, whilst paragraph 14 sets out that at the heart of the *Framework* is a presumption in favour of sustainable development.
15. Considering the environmental role, the appeal site is a Greenfield location about 1 kilometre from the village centre and it lies outside the development boundary for Clenchwarton. However, the development boundary must be considered out of date, due to the lack of a 5 year housing land supply. Provided the proposal maintains the sporadic nature of development around the village the proposal would not lead to coalescence of settlements and any environmental impact would be minimised.
16. Moreover, Clenchwarton is identified in the CS as a Key Rural Service Centre and CS Policy CS01 states that residential development should be encouraged "within or adjacent to these selected Key Rural Service Centres". In this case, the site has been considered and rejected by the Council as a housing allocation site, partly due to distance from the 'heart' of the village and the fact that it was not adjoining the village boundary, which is now out of date.
17. In economic terms, even though around 1 kilometre from the services and facilities at the 'heart' of the village, the proposed development would help sustain them and contribute to their vitality and viability. In social terms, although it is accepted that any infrastructure contributions would be mitigation rather than a benefit, the development would contribute by providing 40 needed houses, eight of which would be affordable, to help satisfy local need. When all three dimensions are considered together the site would be sustainable.

Effect on the Character and Appearance of the Countryside

18. The character and appearance of Clenchwarton and its surroundings is that of a small village with several sporadic pockets of development around, but outside, the main settlement. Further afield there is flat agricultural land. The appeal site has not been used for sports activities for some years and is vacant and largely unused. The proposal would lie outside the main settlement, as defined in both the LP and CS, although these policies must be regarded as out of date.
19. The proposed scheme would adjoin the rear boundaries of properties in Coronation Road and a few properties on Main Road, but unlike an earlier scheme for 75 houses (APP/V2635/A/12/2175128) on a larger site, it would not

consolidate the existing sporadic development to the extent that it would alter the perceived character and appearance of the area around the main village by consolidating or urbanising the area. This is because views into and out of the site are very limited due to the existing hedges, a fact accepted by the Inspector in the previous appeal. An illustrative layout, master plan, and section, demonstrate that the site could be developed with dwellings set away from the access such that the houses, whilst not hidden, could be screened and would not be conspicuous, even given the need to raise site levels locally around the houses and to set the FFL at 3.25 metres AOD. The character and appearance of sporadic pockets of development outside the main village would be maintained.

20. The previous Inspector concluded that it had not been demonstrated that the development, incorporating the flood mitigation measures as in this case, would be effectively screened within the wider landscape. That is not the case in this appeal, as set out above, due at least in part to the reduced number of dwellings proposed and their location some distance from the access.

Flood Risk

21. The site is located in Flood Zone 3 (Tidal) and a Hazard Zone as defined in the *King's Lynn and West Norfolk Strategic Flood Risk Assessment (SFRA)*. The *Tidal River Hazard Mapping Protocol 2012* also defines the site as at high risk of flooding. In the event of an overtopping/breach of the defences of the Great River Ouse the site could be flooded up to a depth of one metre.
22. Paragraph 14 of the *Framework* indicates that where the development plan is absent, silent, or relevant policies are out of date, planning permission should be granted unless, amongst other matters, specific policies in the *Framework* indicate development should be restricted. Footnote 9 to paragraph 14 notes that such specific policies include those relating to locations at risk of flooding.
23. The previous appeal decision relating to the site concluded that the 75 dwelling scheme conflicted with the advice in *Framework* paragraph 102. *Framework* paragraph 100 refers to applying a sequential, risk-based approach whilst paragraphs 101 and 102 relate to Sequential and Exceptions Tests, the latter of which has two limbs, both of which must be satisfied.
24. Paragraph 101 states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Although the Council maintains that there are sequentially preferable sites adjacent to the village, as they are in Flood Zone 3 but not a Hazard Zone, both the village and the site are protected by the same flood defences against a 1 in 200 event, inclusive of climate change. Both must, therefore, have the same risk of flooding and there is no sequential preference between them.
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 - b) Details of the species, diameter, approximate height and condition of each tree in accordance with BS:5837:1991, and on each tree which is on land adjacent to the site where the crown spread of that tree falls over the application site and where any tree is located within half of its height in distance from the application site.
- 5) The development hereby permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Ref 132042-R02 (00) dated May 2014 and the mitigation measures detailed in the FRA including that the finished ground floor levels shall be set no lower than 3.25m AOD.
- 6) Prior to the commencement of the development, a scheme for the provision and implementation of flood resilient/resistant construction methods shall be submitted to, and approved in writing by, the local planning authority. This shall include the provision of flood barriers to be installed on all entrance/doorways. The works/scheme shall be constructed and completed in accordance with the approved plans/specification at such time as may be specified in the approved scheme.
- 7) No development shall take place until full details of the foul and surface water drainage arrangements for the site have been submitted to, and approved in writing by, the local planning authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is occupied.
- 8) No development shall take place until full details of the land drainage arrangements for the site have been submitted to, and approved in

- writing by, the local planning authority. The drainage details shall be constructed as approved before any part of the development hereby permitted is occupied.
- 9) No development shall take place until a detailed outdoor lighting scheme has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall include details of the types of lights, the orientation/angle of the luminaries, the spacing and height of lighting columns, the extent/levels of illumination over the site and on the adjacent land, and measures to contain light within the curtilage of the site. The approved scheme shall be implemented and thereafter retained in working order.
 - 10) No development shall take place until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be implemented during the period of construction.
 - 11) No development shall take place until details of arrangements for future management and maintenance of the streets within the development have been submitted to, and approved in writing by, the local planning authority. The streets shall thereafter be maintained in accordance with the approved details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established.
 - 12) No development shall take place until detailed plans of the roads, footways, foul and surface water drainage have been submitted to, and approved in writing by, the local planning authority. All construction works shall be carried out in accordance with the approved plans.
 - 13) No dwelling shall be occupied until the roads and footways have been constructed to binder course surfacing level from the dwelling to the adjoining County road in accordance with details that have previously been submitted to, and approved in writing by, the local planning authority.
 - 14) Notwithstanding the details on the application drawings, no development shall take place until a detailed scheme for the off-site highway improvement works, as indicated on drawing no STH2713-007 A, has been submitted to, and approved in writing by, the local planning authority.
 - 15) No dwelling shall be occupied until the off-site improvements works referred to in condition 14 have been implemented in accordance with the approved scheme.
 - 16) No dwelling shall be occupied until a scheme for the provision of fire hydrants has been implemented in accordance with a scheme that has previously been submitted to, and approved in writing by, the local planning authority.
 - 17) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to, and approved in writing by, the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the *National*

Planning Policy Framework or any future guidance that replaces it. The scheme shall include:

- i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 8 housing units;
- ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no RSL involved);
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing, and the means by which such occupancy criteria shall be enforced.

APPEARANCES

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Paul Lyon

K Smart

James Drennan

Norfolk County Council

Norfolk County Council

Clenchwatton Parish Council

Local Resident

Local Resident

Local Resident

Local Resident

Local Resident

Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

Doc 1 Wainhomes (South West) Holdings Limited Judgement [2013] EWHC 597 (Admin)

Doc 2 Replacement Table 2a Housing Supply from Updated Housing Trajectory as at 1 April 2014 from LPA's Statement 5 December 2014

Doc 3 Council's response bundle dated December 2014